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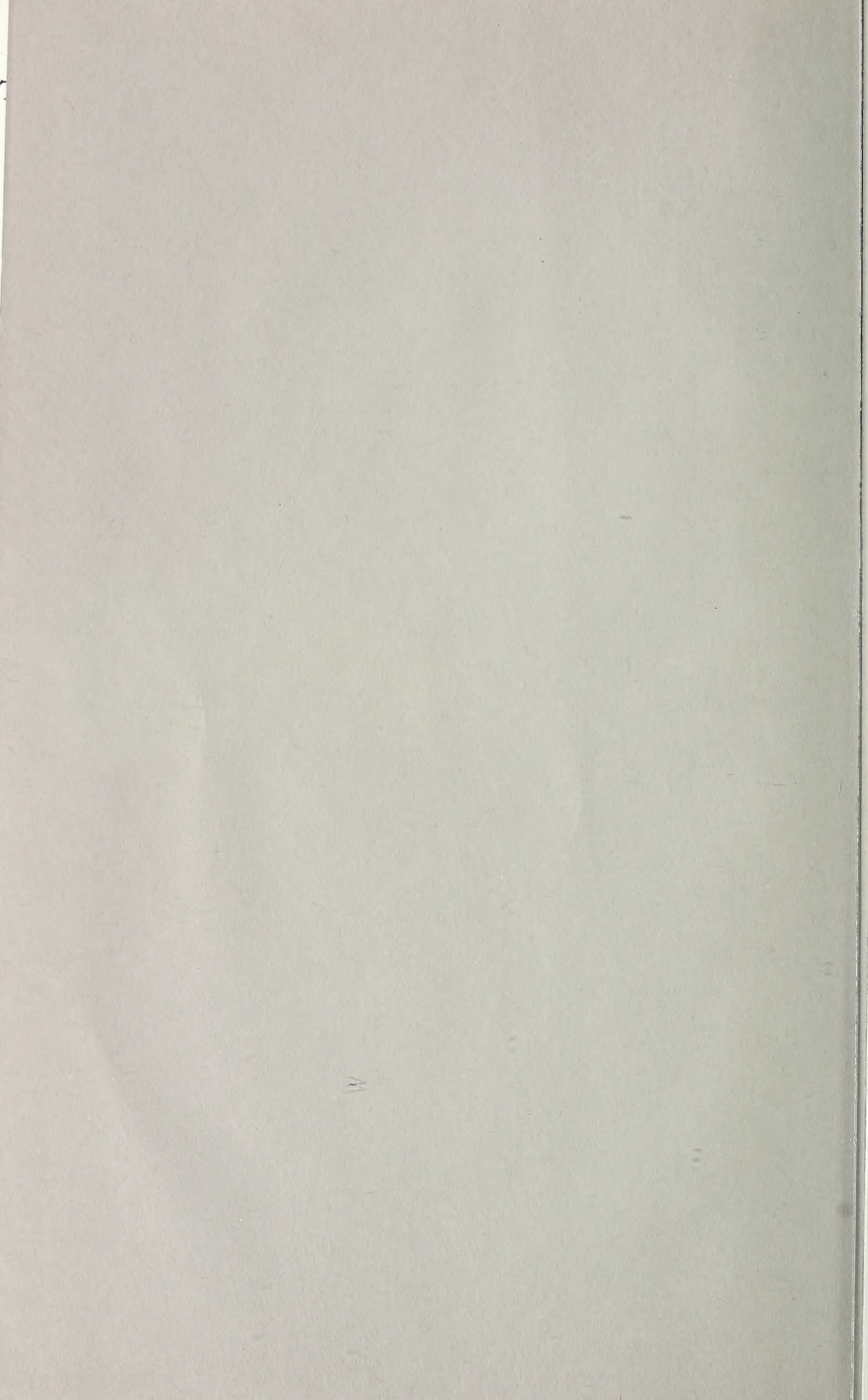
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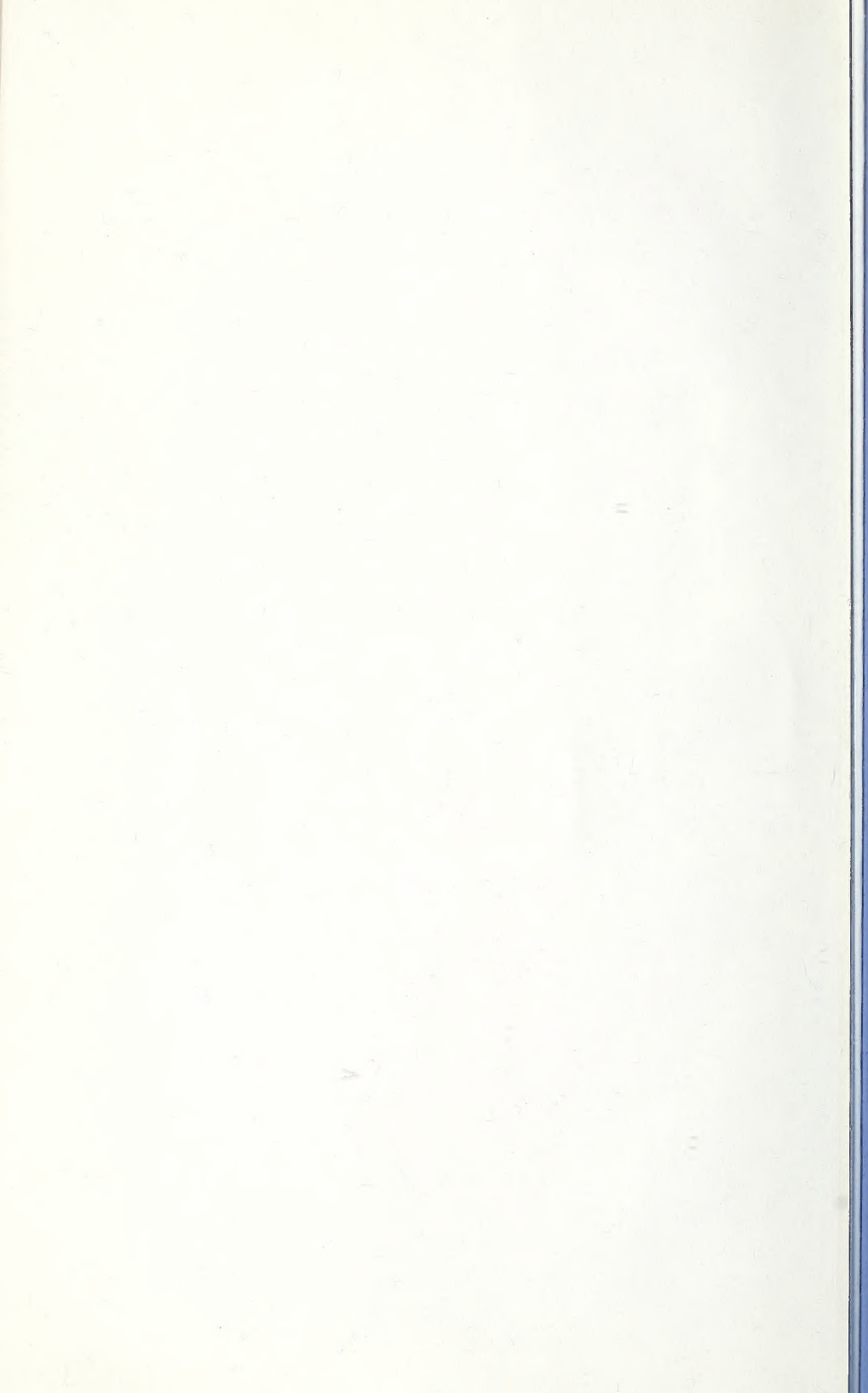
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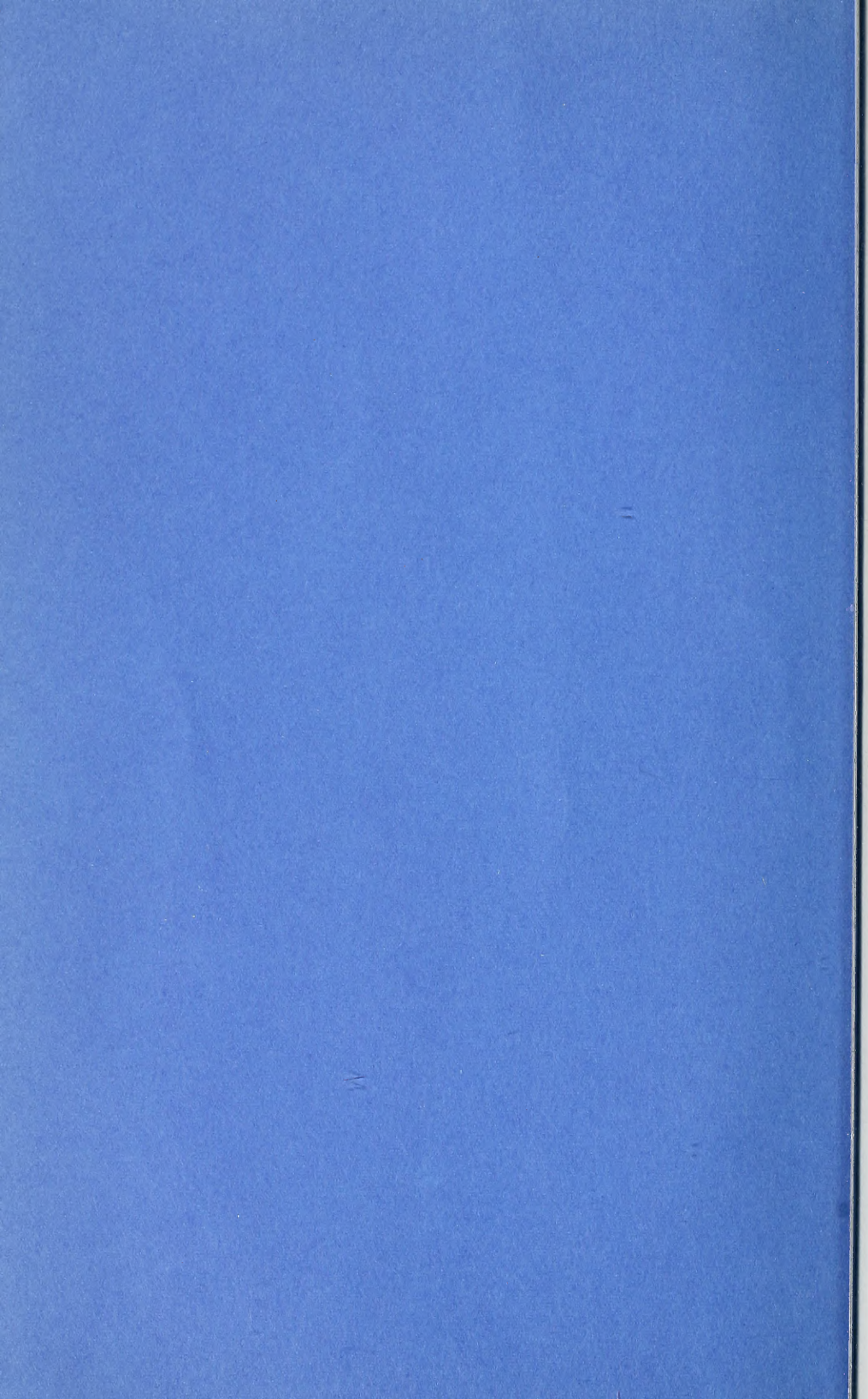
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BIENNIAL REPORT
OF THE
ATTORNEY GENERAL
OF THE
STATE OF NORTH CAROLINA

VOLUME 38
1964-66

MAY 9 1967



BIENNIAL REPORT
OF THE
ATTORNEY GENERAL
OF THE
STATE OF NORTH CAROLINA

VOLUME 38
1964-66

THOMAS WADE BRUTON
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Assistant Attorneys General

* Resigned

LETTER OF TRANSMITTAL

1 January 1967

To his Excellency

DAN K. MOORE, *Governor*

Raleigh, North Carolina

Dear Sir:

In compliance with Article III, Section 7 of the Constitution, I herewith submit the report of the Department of Justice for the biennium 1964-66.

Respectfully yours,

THOMAS WADE BRUTON

Attorney General

LIST OF ATTORNEYS GENERAL SINCE THE ADOPTION OF CONSTITUTION IN 1776

	<i>Term of Office</i>
Avery, Waightsill	1776-1779
Iredell, James	1779-1782
Moore, Alfred	1782-1790
Haywood, J. John	1791-1794
Baker, Blake	1794-1803
Seawell, Henry	1803-1808
Fitts, Oliver	1808-1810
Miller, William	1810-1810
Burton, Hutchins G.	1810-1816
Drew, William	1816-1825
Taylor, James F.	1825-1828
Jones, Robert H.	1828-1828
Saunders, Romulus M.	1828-1834
Daniel, John R. J.	1834-1840
McQueen, Hugh	1840-1842
Whitaker, Spier	1842-1846
Stanly, Edward	1846-1848
Moore, Bartholomew F.	1848-1851
Eaton, William	1851-1852
Ransom, Matt W.	1852-1855
Batchelor, Joseph B.	1855-1856
Bailey, William H.	1856-1856
Jenkins, William A.	1856-1862
Rogers, Sion H.	1862-1868
Coleman, William M.	1868-1869
Olds, Lewis P.	1869-1870
Shipp, William M.	1870-1872
Hargrove, Tazewell L.	1872-1876
Kenan, Thomas S.	1876-1884
Davidson, Theodore F.	1884-1892
Osborne, Frank I.	1892-1896
Walser, Zeb V.	1896-1900
Douglas, Robert D.	1900-1901
Gilmer, Robert D.	1901-1908
Bickett, T. W.	1909-1916
Manning, James S.	1917-1925
Brummitt, Dennis G.	1925-1935
Seawell, A. A. F.	1935-1938
McMullan, Harry	1938-1955
Rodman, William B., Jr.	1955-1956
Patton, George B.	1956-1958
Seawell, Malcolm B.	1958-1960
Bruton, Thomas Wade	1960

205019

EXHIBIT I

CIVIL ACTIONS PENDING IN STATE AND FEDERAL COURTS DURING THE BIENNIUM 1964-66:

	<i>Number of Cases</i>
PENDING IN THE SUPERIOR COURT OF NORTH CAROLINA	
State Taxes	37
Motor Vehicle Drivers' Licenses	57
Condemnation Proceedings	1,335
Utilities Commission Cases	9
Beer and Wine License Revocations	14
Other	74
TOTAL	<u>1,526</u>
PENDING IN THE SUPREME COURT OF NORTH CAROLINA	
State Taxes	2
Other	5
TOTAL	<u>7</u>
PENDING IN THE UNITED STATES DISTRICT COURTS	
State Taxes	1
Other	19
TOTAL	<u>20</u>
PENDING IN THE UNITED STATES SUPREME COURT	
Other	2
CIVIL CASES DISPOSED OF DURING THE BIENNIUM 1964-66	
In the Superior Court of North Carolina	1,401
In the Supreme Court of North Carolina	44
In the Supreme Court of the United States	4
In the District Courts of the United States	11
Before the Interstate Commerce Commission	1
Before the North Carolina Industrial Commission	149
Before the North Carolina Utilities Commission	83
Habeas Corpus Petitions Disposed of in the Superior Court	288
Habeas Corpus Petitions Disposed of in the Federal District Court	289
TOTAL	<u>2,270</u>

EXHIBIT II

CRIMINAL CASES DISPOSED OF IN THE NORTH CAROLINA SUPREME COURT DURING THE BIENNIUM 1964-66:

Abandonment—Nonsupport	6
Abortion—Procuring	1
Assault and Battery	3
Assault on Female	4
Assault With Deadly Weapon	11
Assault with Intent to Kill	3
Assault with Intent to Rape	8
Bigamous Cohabitation	1
Breaking-Entering-Larceny-Receiving	72
Burglary—First Degree	2
Carnal Knowledge	2
Contempt	2
Conspiracy	4
Contributing to Delinquency of a minor	1
Crime Against Nature	5
Damage to Real Property	3
Disorderly Conduct	2
Disturbing Peace	1
Embezzlement	1
Engaging in Riot	1
Escape	9
False Pretense	1
Felonious Burning of Property	1
Former Jeopardy	1
Forgery	6
Gambling	1
Hit and Run	5
Incest	1
Jurisdiction of Court	1
Kidnapping	2
Manslaughter	15
Murder First Degree	4
Murder Second Degree	6
Peeping Tom	1
Perjury	1
Profanity—Telephone	1
Public Drunkenness	1
Rape	3
Resisting Arrest	2
Robbery—Armed	15
Robbery—Common Law	8
Safe-cracking	3

Theft	1
Trespass	5
Unlawfully Disposing of Mortgaged Property	1
Violating Building Code	1
Violating City Ordinance	1
Violating Immunization and Vaccine Acts	1
Violating Liquor Laws	7
Violating Motor Vehicle Laws	21
Violating Narcotics Act	1
Violating Oath of Office	8
Violating Rules of the Road	4
Violating Suspended Sentence	2
Violation of Constitutional Rights	1
Worthless Checks	6
State Appeals—Vacating Sentences	1

TOTAL	282
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Number of Cases dismissed on motion during the Biennium 1964-66	14
Number of Petitions for Stay of Judgment denied	2
Number of Petitions for Writ of Certiorari allowed	73
Number of Petitions for Writ of Certiorari denied	260
Number of Petitions for Writ of Error Coram Nobis denied	1
Number of Petitions for Writ of Error Coram Nobis remanded to Superior Court	1
Number of Petitions for Writ of Habeas Corpus denied	17
Number of Petitions for Writ of Habeas Corpus remanded to Superior Court	1
Number of Petitions for Writ of Mandamus denied	10
Number of Petitions for Writ of Prohibition denied	1
Number of Petitions to Appoint Counsel denied	1
Number of Petitions to Proceed in Forma Pauperis denied	1
Number of Petitions to Proceed in Forma Pauperis remanded to Superior Court	3
Number of Petitions to Rehear Argument denied	2
Number of Petitions to Reset Argument allowed	7
Number of Petitions to Reset Argument denied	1

FEES TRANSMITTED BY THE ATTORNEY GENERAL TO THE
STATE TREASURER DURING THE BIENNIUM 1964-66

\$870.00

SUMMARY OF ACTIVITIES

STAFF PERSONNEL

There have been very few changes in the staff personnel since the publication of the Biennial Report of 1962-64. Several additional positions have been established and filled during the biennium 1964-66 due to the increased volume of work handled by the Attorney General's office. An additional Deputy Attorney General's position and three Assistant Attorneys General's positions have been added in addition to several staff attorneys and secretaries.

Attorney General T. W. Bruton, Deputy Attorneys General Harry W. McGalliard, Peyton B. Abbott, Ralph Moody and Harrison Lewis, and Assistant Attorneys General Charles D. Barham, Jr., James F. Bullock, Parks H. Icenhour, Andrew H. McDaniel, William W. Melvin, Bernard A. Harrell, George A. Goodwyn, and Millard R. Rich, Jr., were serving at the close of the biennium. There were also twenty-five (25) staff attorneys and thirty-six (36) secretaries serving at the close of the biennium.

HIGHWAY DIVISION OF ATTORNEY GENERAL'S OFFICE

During the past biennium, the Attorney General, in the discharge of his responsibilities to represent the State Highway Commission, its Chairman and Administrator, has handled a work load somewhat in excess of that handled during the previous biennium. It is anticipated that the work will increase during the coming biennium due to a \$330,000,000 bond program and the Appalachian Highway Program, both of which are already vastly increasing the right-of-way acquisition of the Highway Commission.

At the close of the previous biennium, one thousand three hundred and seventy-four (1,374) suits involving the Highway Commission were pending. During the biennium, one thousand eighty-two (1,082) suits were instituted either by or against the Highway Commission. One thousand one hundred twenty one (1,121) suits were disposed, one hundred thirty-nine (139) of which were terminated by jury trials in the Superior Court. The balance was settled either prior to or during trial. One thousand three hundred thirty-five (1,335) condemnation and related cases are pending as of the close of the biennium.

The State Highway Commission has been represented in the Supreme Court in eleven (11) cases during the period by members of this staff. At the conclusion of the biennium, there are four (4) cases involving the State Highway Commission pending in the Supreme Court. During the entire biennium, the number of cases disposed of has exceeded the number of new cases instituted. This is due to an increase in staff and the placement of two lawyers and a secretary in Asheville to handle cases more efficiently in the western counties of the State.

During the biennium, the members of this staff participated with the administrative personnel of the Highway Commission in the determination of a large number of claims brought by highway contractors arising out of contract work carried on by the Commission. At the close of the biennium,

twenty-one (21) of these cases are pending. The staff has also represented the Commission in the adjustment of claims for damage to Commission property and other miscellaneous matters.

In addition, members of the staff have drafted, reviewed or approved approximately fifteen thousand (15,000) leases, deeds, right-of-way claims, encroachment contracts, miscellaneous agreements with utilities, railroads, municipalities and other governmental agencies, as well as construction contracts.

Throughout the biennium, the staff has had the very complete cooperation of the State Highway Commission, its Chairman, Administrator and department heads in the prosecution of the Attorney General's work for the State Highway Commission.

TORT CLAIMS AND WORKMEN'S COMPENSATION

During the past biennium, the Attorney General defended 199 tort claims on behalf of the various State departments, institutions and agencies under the provisions of the North Carolina Tort Claims Act. Approximately 75% of the tort claims filed were duly calendared and tried before the North Carolina Industrial Commission as provided by law, with the remaining 25% being settled.

Since July 1, 1959, the State has carried liability insurance on its motor vehicles as required by Chapter 1248, Session Laws of North Carolina, 1959. Consequently, all claims arising as a result of alleged negligent operation of State vehicles have been handled to conclusion by the insurance carrier. Settlements of all tort claims are subject to the approval of the Attorney General and the North Carolina Industrial Commission.

The Attorney General also represents the various departments, institutions and agencies of the State in connection with Workmen's Compensation claims filed by the State employees. During the past biennium 149 claims were defended by the Attorney General before the Industrial Commission. The Attorney General also rendered assistance and advice on numerous compensation claims which were disposed of without necessitating hearings before the Commission.

DIGEST OF OPINIONS

AGRICULTURE

22 December 1965

AGRICULTURE; SLAUGHTER OF CATTLE

G. S. 106-327 imposes no mandatory duty on the North Carolina Department of Agriculture to withhold payment of compensation to the owner of a slaughtered animal when the date of slaughter is more than 30 days after the date of inspection and appraisal of the animal.

28 July 1965

AGRICULTURE; STATE AGRICULTURAL WAREHOUSE SYSTEM; BONDS-OFFICIAL; STATE AGRICULTURAL WAREHOUSE SUPERINTENDENT; U. S. WAREHOUSE ACT BOND UNDER 1965 STATE WAREHOUSE ACT

U. S. Warehouse Act bond executed by State Agricultural Warehouse Superintendent on behalf of the State of North Carolina is in substantial compliance with G. S. 106-450.1, an amendment to the North Carolina Agricultural Warehouse Act by Chapter 1038, Session Laws of 1965.

10 December 1965

AGRICULTURE; STATE WAREHOUSE SYSTEM; STATE WAREHOUSE SUPERINTENDENT; WAREHOUSE RECEIPTS ACT; FULL FAITH AND CREDIT OF STATE

The full faith and credit of North Carolina is not pledged as security for warehouse receipts issued pursuant to the provisions of Article 38, Chapter 106, General Statutes of North Carolina.

ABC ACT

12 November 1964

ABC ACT; EXPENDITURE OF FUNDS FOR EDUCATION; EXPENDITURE FOR RESEARCH NOT AUTHORIZED

Local ABC boards are not authorized to expend funds for research regarding the effects of the use of alcoholic beverages. G. S. 18-45 (O).

7 December 1965

ABC ACT; PENALTY FOR CONSUMPTION OF BEER AFTER HOURS

Consumption of beer or wine by a customer on licensed premises between the hours of 12:00 midnight and 7:30 a.m., under GS 18-141, is not a criminal violation by the customer, but makes the licensee of such an establishment subject to indictment under GS 18-106, and subject to administrative action by the State Board of Alcoholic Control.

31 March 1966

ABC ACT; POSSESSION OF INTOXICATING BEVERAGES IN WET OR CONFORMING TERRITORY; CONSTRUCTION OF TURLINGTON ACT AND ABC ACT OF 1937

In construing the Turlington Act and the ABC Act of 1937 in *pari materia*, it appears that the possession of taxpaid liquor at any place within a conforming territory is illegal except while being transported, as permitted by statute, or while possessed in a person's dwelling, as provided in GS 18-11.

ABC BOARD

30 September 1964

ABC BOARD; MUNICIPAL ABC BOARD; LABOR; AUTHORITY OF EMPLOYEES OF ABC STORE OF MUNICIPALITY TO FORM A UNION AND ENGAGE IN COLLECTIVE BARGAINING

ABC boards are units of government and their employees are public employees and such employees cannot become members of labor unions.

ADMINISTRATIVE BODIES

12 November 1965

ADMINISTRATIVE BODIES; AUTHORITY TO HOLD HEARING FOR DISPOSITION OF PRELIMINARY QUESTIONS OR COLLATERAL QUESTIONS; COLLATERAL QUESTION RAISED AS TO THE JURISDICTION OR AUTHORITY OF BOARD TO HOLD HEARING

Where an administrative body such as a county board of education is proceeding under a statute which does not require any particular method of procedure, the administrative body may dispose of preliminary motions or collateral matters before it goes into a hearing on the merits of the charges preferred.

ATTORNEYS

7 October 1964

ATTORNEYS; COMMISSION OF CRIMINAL OFFENSE; PLEA OF NOLO CONTENDERE; LOSS OF CITIZENSHIP; INHERENT POWER OF THE COURT TO DISBAR FOR CONDUCT SHOWING THAT ATTORNEY IS UNFIT TO PRACTICE LAW; EFFECT OF LOSS OF CITIZENSHIP OF ATTORNEY ON RIGHT TO PRACTICE LAW

While a person is required to be a citizen of the United States and a citizen and resident of the State of North Carolina at the time of applying for admission to the law examination it is not necessary to maintain citizen-

ship in order to practice law in this State; a person who pleads nolo contendere to a bill of indictment charging a felony and is sentenced to the penitentiary forfeits his citizenship in this State, a person who pleads nolo contendere to a bill of indictment charging a felony thereby admits that he has committed a felony; a judge of the Superior Court has a right to proceed against an attorney by virtue of the inherent powers of the court if the attorney has demonstrated his unfitness to practice law.

23 October 1964

ATTORNEYS; PRACTICE OF LAW; PREPARING WILLS

In North Carolina it is unlawful for anyone except a licensed attorney to prepare a will for another.

BANKS

2 June 1966

BANKS; DAYS OPEN; CHANGE FROM SIX-DAY TO FIVE-DAY WEEK; NO PROCEDURE FOR REVERSING CHANGE

Once the banks of a city or town have secured an order from the Commissioner of Banks permitting operation on a five-day week basis, there is no statutory procedure for reverting to a six-day week.

15 February 1965

BANKS; LOANS TO OFFICERS OR EMPLOYEES; CONDITIONS OF LOANS

Under the provisions of G. S. 53-91, requiring good collateral or other ample security or endorsement in the case of a bank loan to a bank official or employee, a mere financial statement of the borrower does not constitute "good collateral or other ample security or endorsement."

BEACH EROSION

18 March 1965

BEACH EROSION; BUILDING SAND DUNES, JETTIES., ETC.; NECESSARY EXPENSE

The building of sea jetties, dikes, groins and other similar structures is a necessary expense and, therefore, can be approved without a vote of the people when it can be shown that the structures to be built are placed in the particular location for the preservation of lands, and if not so constructed, would cause a serious loss and damage to said locality.

BONDS

14 October 1965

BONDS; ISSUANCE OF REVENUE BONDS FOR DORMITORIES; FIDELITY BOND FOR TREASURER

Where a treasurer of a State agency is already bonded in a surety company but receives an increase in a substantial amount of money for building dormitories, the surety bond should be increased in an amount to cover these funds.

31 August 1964

BONDS; SHERIFFS; CLAIM AND DELIVERY; LIABILITY OF SHERIFF TO DETERMINE SUFFICIENCY OF SURETIES

A sheriff has to certify and approve the sufficiency of the sureties in a plaintiff's undertaking, to the effect that the sureties are bound in double the value of the property as stated in the affidavit; however, if the sheriff does not acquire a sufficient undertaking, then he could be liable, but only to an amount not to exceed in double the value of the property as stated in the said affidavit. G. S. 1-475.

CEMETERIES

4 March 1965

CEMETERIES; OPERATED BY CITY FUNDS OPEN TO ALL RACES ON SAME BASIS; CONSTITUTIONAL LAW; EQUAL PROTECTION OF THE LAW

A cemetery operated by a municipal corporation by the use of public funds must be open to all races on the same basis under the equal protection of the law clause of the Fourteenth Amendment.

8 December 1965

CEMETERIES; PERPETUAL CARE CEMETERY; BURIAL COMMISSIONER; TRUST FUND

A separate trust fund must be set aside pursuant to G. S. 65-26 for each public perpetual care cemetery established in North Carolina.

CITIZENSHIP

5 September 1964

CITIZENSHIP; LOSS OF CITIZENSHIP AND RIGHT TO VOTE FOR CONVICTION OF CRIME; LOSS OF CITIZENSHIP FOR CONVICTION OF FELONY; CONVICTION FOR PETTY LARCENY

Larceny of property which does not exceed \$200.00 in value is a misdemeanor and a conviction thereon does not deprive the person convicted of

his citizenship; larceny of property of any value under the exceptions contained in G. S. 14-72 is a felony and does result in deprivation of citizenship.

CIVIL PROCEDURE

29 September 1965

CIVIL PROCEDURE; CLAIM AND DELIVERY ISSUED TO SHERIFF BY RECORDER'S COURT OF ANOTHER COUNTY

A Recorder's Court of one county may not issue a claim and delivery to be executed in another county, because of the provision in G. S. 7-248 that "... no civil process shall be issued by any recorder's court to any county other than that in which the court is located." This is subject to local modification in Carteret and Franklin Counties.

22 November 1965

CIVIL PROCEDURE; ESCHEATS; SERVICE OF PROCESS ON THE UNIVERSITY OF NORTH CAROLINA; NECESSITY OF MAKING THE UNIVERSITY A PARTY IN TAX FORECLOSURE PROCEEDINGS

If property has escheated to the University of North Carolina, its title cannot be affected by an action unless the University is made a party.

G. S. 146-69 provides the proper manner for service of process on the University.

25 August 1965

CIVIL PROCEDURE; PARTITION OF REAL PROPERTY; SPOUSES AS PARTIES

Although Constitution, Art. X, §6, as amended, and G. S. 52-1 now make a husband's joinder in his wife's conveyance of her land unnecessary, and dower and curtesy have been abolished by G. S. 29-4, it is necessary that both spouses be parties to proceedings to partition real property, in order to divest the spouse who does not own the property of his or her elective rights in the real property under G. S. 29-30.

1 June 1965

CIVIL PROCEDURE; PATERNITY; BLOOD TESTS; EVIDENCE; COMPELLING TESTS; BASTARDY LAW

In paternity cases, it is mandatory under G. S. 8-50.1, upon proper motion being made, that appropriate blood grouping tests be made and admitted into evidence.

12 November 1964

**CIVIL PROCEDURE; SERVICE OF PROCESS; NONRESIDENT MOTORIST; SERVICE ON
COMMISSIONER OF MOTOR VEHICLES; METHOD OF SERVICE**

In securing service on a nonresident motorist by serving the Commissioner of Motor Vehicles pursuant to G. S. 1-105, service should be made on the Commissioner by an appropriate officer with the same formalities as in the case of service of process on any other person in this State.

COLLECTION AGENCIES

3 August 1965

**COLLECTION AGENCIES; BILL COLLECTORS; DOING BUSINESS IN ONLY ONE
COUNTY**

Article 9 of Chapter 66 of the General Statutes makes provision for bill collectors to secure permits from the State Commissioner of Insurance, but G. S. 66-49 of the article provides that the article shall not apply "to any person, firm or corporation whose business of collecting accounts is limited to the collection of such accounts against debtors having residence in the county of the residence of such person or firm, or the principal office of such corporations so engaged in such business."

CONSERVATION AND DEVELOPMENT

5 January 1966

**CONSERVATION AND DEVELOPMENT; DEPARTMENT OF CRIMINAL LAW;
COMMERCIAL FISHING**

The provisions of G. S. 113-140 do not provide for the confiscation of fishing boats or vessels.

CONSTITUTIONAL LAW

4 March 1965

**CONSTITUTIONAL LAW; CEMETERIES; EQUAL PROTECTION OF THE LAW;
CEMETERIES OPERATED BY CITY FUNDS OPEN TO ALL RACES ON SAME BASIS**

A cemetery operated by a municipal corporation by the use of public funds must be open to all races on the same basis under the equal protection of the law clause of the Fourteenth Amendment.

5 September 1964

CONSTITUTIONAL LAW; CIVIL RIGHTS; SEGREGATION IN PRISONS
AND JAIL FACILITIES

Up to the present time no case has been found which invalidates the segregation of prisoners according to races when this is done for safety, to prevent riots and to bring about a more peaceful administration of a jail or prison.

16 July 1964

CONSTITUTIONAL LAW; GRAND JURY; INVALID INDICTMENT BECAUSE OF
RACE EXCLUSION IN ORGANIZING GRAND JURY

Under the Equal Protection Clause of the United States Constitution and under the Law of the Land Clause of the North Carolina Constitution an indictment of a Negro by a grand jury in the organization of which persons have been excluded because of race is invalid; in order to secure a valid indictment boards of county commissioners should proceed at once to reorganize their jury box without excluding persons because of race.

3 June 1966

CONSTITUTIONAL LAW; GRAND JURY AND PETIT JURY; CONSTITUTIONAL
JURIES FROM THE STANDPOINT OF RACIAL DISCRIMINATION; RIGHT OF
DEFENDANT TO BE TRIED BY JURY AND TO BE INDICTED BY GRAND JURY
FREE FROM DISCRIMINATION AS TO HIS RACE; RECONSTITUTION OF JURY
BOX IF NECESSARY FOR A CONSTITUTIONAL JURY

From a racial standpoint grand juries and trial juries should be constituted by a reference to tax lists and any other lists that will give the names of eligible jurors and there should be no racial discrimination in the selection.

14 July 1965

CONSTITUTIONAL LAW; PUBLIC SCHOOLS; EDUCATION EXPENSE GRANTS;
LEGAL VALIDITY OF TUITION EXPENSE GRANTS FOR ATTENDANCE AT PRIVATE,
NONSECTARIAN SCHOOL; ARTICLE IX, SECTION 12, CONSTITUTION OF NORTH
CAROLINA

Education or tuition expense grants made for the purpose of paying the tuition of eligible children for attendance at private, nonsectarian schools where such schools have their own independent financial structure and do not exist primarily because of such tuition grants are constitutional, legal and valid.

Article 35 of Chapter 115 of the General Statutes.

5 June 1965

CONSTITUTIONAL LAW; PUBLIC SCHOOLS; SEPARATION OF CHURCH AND
STATE; VALIDITY OF RELEASE TIME APPROVED BY PARENTS FOR
RELIGIOUS INSTRUCTION OF PUPIL

Release of a public school pupil from the public school for a period of one hour a week for religious instruction in a church of an established religious denomination and at the request of the parents is lawful and valid and is not a violation of the State or Federal Constitutions.

CONTRACTS

10 July 1964

CONTRACTS; PUBLIC CONTRACTS; COMPETITIVE BIDDING; MINIMUM BIDS;
PURCHASE OF APPARATUS, SUPPLIES, MATERIALS, OR EQUIPMENT

G. S. 143-132, prescribing a minimum number of bids for certain local governmental contracts, is applicable only to contracts for construction or repairs, and is not applicable to contracts for the purchase of apparatus, supplies, materials, or equipment even though G. S. 143-129 itself applies to all.

CORPORATIONS

18 January 1966

CORPORATIONS; FOREIGN; DOMESTICATION

A foreign corporation engaged in this State in the sole business of building Post Office buildings and leasing them to the United States Post Office Department is "doing business" in this State to the extent of requiring a Certificate of Authority or domestication.

23 September 1965

CORPORATIONS; FOREIGN; MERGER AUTHORIZED TO TRANSACT BUSINESS IN
NORTH CAROLINA; CERTIFICATE OF MERGER

Where there is a merger of two foreign corporations, both of whom are authorized to transact business in North Carolina, the surviving corporation is required to file articles of merger with the Secretary of State, there being no requirement that it record the articles of merger in each county in order to protect the interests acquired.

2 February 1966

CORPORATIONS; GENERAL, DOMESTIC AND FOREIGN; MERGER OF FOREIGN AND
DOMESTIC NON-PROFIT CORPORATIONS

A foreign non-profit and a domestic non-profit corporation may not merge or consolidate.

5 March 1965

CORPORATIONS; SAVINGS AND LOAN ASSOCIATIONS; CERTIFICATE OF
INCORPORATION; LIST OF STOCKHOLDERS; STATEMENT SHOWING
SHARES SUBSCRIBED BY EACH

A new certificate of incorporation for a savings and loan association must show the names of each incorporator and the number of shares of stock which each such incorporator has subscribed for.

COUNTIES

6 November 1964

COUNTIES; AUTHORITY TO LEASE PROPERTY FOR COUNTY OFFICES;
TERM OF LEASE

A county may execute a lease for necessary office space for county offices which lease may extend over a reasonable period of years beyond the term or terms of the incumbent county commissioners.

7 May 1965

COUNTIES; BUILDINGS; ASC OFFICES; FURNISHING OFFICE SPACE

When a county has space in the courthouse or county office building not needed for county office purposes, it is lawful to permit the ASC Committee to have office space free of rent.

18 March 1965

COUNTIES; BUILDING SAND DUNES, JETTIES, ETC.; NECESSARY EXPENSE

The building of sea jetties, dikes, groins and other similar structures is a necessary expense and, therefore, can be approved without a vote of the people when it can be shown that the structures to be built are placed in the particular location for the preservation of lands, and if not so constructed, would cause a serious loss and damage to said locality.

February 14, 1966

COUNTIES; COMMISSIONERS; AIRPORTS; PUBLIC PURPOSE;
EXPENDITURES OF TAX FUNDS

Expenditures by counties for the acquisition, construction, and maintenance of airports are for a public purpose, but are not a necessary expense

within the contemplation of law, and taxes may not be levied therefor without a vote of the people.

10 July 1964

COUNTIES; COMMISSIONERS; BOARD OF ELECTIONS; AUTHORITY OF
COMMISSIONERS TO PAY ATTORNEY FEES FOR DEFENSE
OF ELECTION OFFICIALS

Under GS 153-9(48), county commissioners are authorized to pay reasonable attorney fees for services in representing county election officials only when an action has been instituted against such officials and not when the officials institute an action in their own behalf.

11 January 1965

COUNTIES; COMMISSIONERS; CONTINUING CONTRACTS; CONSTITUTIONAL
LIMITATIONS ON INDEBTEDNESS

Where the board of commissioners of a county proposes to purchase land for an industrial education center and to make an initial payment and deposit the remaining funds due in a special account to be applied as the grantor wishes, there is nothing that offends against the section on continuing contracts nor is it a violation of the limitations on increase of indebtedness by a county under the provisions of Article V, Section 4, of the Constitution of North Carolina.

18 January 1965

COUNTIES; COMMISSIONERS; ELECTIONS; VACANCY; COMMISSIONER
MOVING FROM DISTRICT FOR WHICH ELECTED

A county commissioner nominated and elected by district must be a resident therein and removal into another district after election would create a vacancy.

21 October 1964

COUNTIES; COMMISSIONERS; EXPENDITURES FOR PUBLIC PURPOSE;
AUTHORITY TO SPEND FUNDS TO PAY THE EXPENSE OF PROMOTING
APPROVAL OF THE SCHOOL BOND ISSUE

County commissioners are not authorized to spend money from the general county fund to promote a campaign in favor of the school bond issue as this would not be a necessary expense or a public purpose.

November 10, 1964

COUNTIES; COMMISSIONERS; FORECLOSED REAL PROPERTY; RESALE

Counties may sell any real property that they own at private sale without public advertisement.

8 July 1964

COUNTIES; COMMISSIONERS; FUNDS; EXPENDITURE FOR STATE HIGHWAYS
PROHIBITED

County Boards of Commissioners have no authority to expend County funds as contributions to groups of individuals organized to urge improvement of State system of highways.

23 December 1964

COUNTIES; COMMISSIONERS; RESOLUTION OF COMMISSIONERS;
RIGHT TO RESCIND

A board of county commissioners has authority to rescind a prior resolution when such prior resolution has not been acted upon and carried into effect.

5 April 1966

COUNTIES; CONVEYANCE OF LAND TO STATE; CONSIDERATION

In the absence of an enabling act, a county may not convey land to the State except in consideration of its fair value.

12 April 1965

COUNTIES; COURTHOUSE; RENTAL OF SURPLUS SPACE

A board of county commissioners would have authority to rent to private individuals or a private corporation space which is available in the courthouse basement but which is currently not needed for any county purpose.

14 September 1965

COUNTIES; DOGS; IMPOUNDED; DISPOSITION

A county does not have authority to sell for experimentation purposes dogs which are impounded under the dog law.

1 November 1965

COUNTIES; EXPENDITURES; PUBLIC PURPOSE; AIR HYGIENE

County expenditure for "air hygiene" is a public purpose.

30 March 1966

COUNTIES; FINANCE; DEBT LIMITATION

A county which has assumed all bond and other indebtedness of all school districts in the county is subject to a debt limitation for school purposes equal to 8% of the assessed valuation of the property in the county and is also subject to a 5% debt limitation for other than school purposes.

7 June 1965

COUNTIES; JURISDICTION OVER DEDICATED ALLEY

The only jurisdiction which counties have over dedicated alleys outside the municipality are the right to close same under G. S. 153-9 (17).

25 May 1966

COUNTIES; LAND; SALE AT PRIVATE SALE

A county may sell real surplus property at private sale and it is not necessary to sell such land at public auction.

22 December 1964

COUNTIES; MUNICIPALITIES; CONSTRUCTION OF TOWN SEWER PLANT

Article 24 of Chapter 153 of the General Statutes provides a variety of procedures for a county and municipalities to cooperate in providing sewer systems as joint projects.

26 May 1965

COUNTIES; OFFICIALS; TWO-YEAR STATUTE OF LIMITATIONS AS TO CLAIMS AGAINST COUNTIES; STATUTE OF LIMITATIONS AS RELATED TO KNOWLEDGE OF CLAIMANT AS TO HIS STATUS AND RIGHTS

Where the Clerk of the Court and Register of Deeds should have their salaries equalized with that of the Sheriff, as required by Public-Local Act, the beginning date of the equalization of salaries as related to the two-year statute of limitations would be the date when they first were fixed with knowledge of their rights and claims.

8 September 1965

COUNTIES; OPERATION OF AMBULANCES; NO GENERAL AUTHORITY

There are no general laws imposing the duty or granting the power to a county to operate an ambulance service, but a county would be authorized, if it operated a hospital, to operate an ambulance service as an adjunct to or an extension of its hospital operation. A few counties have local laws authorizing the operation of an ambulance service.

18 October 1965

COUNTIES; PUBLIC HEALTH CENTER; COUNTY ISSUANCE OF BONDS FOR CONTRIBUTION TO CONSTRUCTION OF PUBLIC HEALTH CENTER; NECESSARY EXPENSE; NECESSITY OF ELECTION

A county cannot issue bonds for its contribution to the construction of a

public health center except by a vote of the people for the reason that a public health center is not a necessary expense.

6 November 1964

COUNTIES; PUBLIC HOSPITALS; BOND ISSUE; HOSPITAL CONSTRUCTION
NOT MANDATORY

Ordinarily approval of a hospital bond issue is merely permissive and such approval does not make construction or acquisition of a hospital mandatory upon the county or city governing board.

22 December 1964

COUNTIES; PUBLIC HOSPITALS; SUPPORT; DEFRAYING OPERATING DEFICIT

Section 131-126.41 authorizes a county to expend funds from certain sources to guarantee the operating deficit of any publicly-owned or non-profit hospital.

July 14, 1965

COUNTIES; REAL PROPERTY; CONVEYANCES THEREOF

A county is a body politic and corporate and may convey real property in its name through its board of commissioners.

In the absence of statutory authorization a county is without authority to execute a warranty deed.

9 September 1964

COUNTIES; REAL PROPERTY; SALES; LEASES; PUBLIC OR PRIVATE SALE

A county may sell surplus real estate at public or private sale but a city may sell surplus real estate only at public auction, except under very unusual circumstances.

21 June 1966

COUNTIES; RECREATION PROGRAM; TAX ELECTION; NO PETITION NECESSARY

No petition is necessary in order to permit a county board of commissioners to call an election on the question of levying a tax for recreation purposes.

COURTS

11 January 1966

COURTS; GENERAL COURT OF JUSTICE; DISTRICT COURTS; CLERKS OF RECORDER'S COURTS; OFFICE TERMINATED UPON ESTABLISHMENT OF DISTRICT COURT

The term of office of clerks of courts inferior to the Superior Court shall terminate upon the establishment of district courts in the county.

3 February 1966

COURTS—JUVENILE; CIRCUMSTANCES UNDER WHICH CHILDREN MAY BE
PLACED IN JAILS; CONFINEMENT PENDING DECISION AS TO
CHARGE AGAINST MINOR

Fourteen or fifteen year old children who have been bound over to the superior court in accordance with G. S. 110-29 (6), or who are charged with a felony for which the punishment may be more than ten years, may be placed in jail just as any adult may be and are not required to be kept separate and apart from adult prisoners.

In view of G. S. 15-46 and G. S. 15-47, a child may not be held in jail 48 hours pending investigation and decision as to whether a charge will be made against him.

10 November 1965

COURTS—JUVENILE; MINORS; PROBATION; AUTHORITY OF CLERK TO COMMIT
JUVENILE OVER AGE 16 WHO HAS VIOLATED PROBATION CONDITION

If a juvenile fails to comply with a probation condition prescribed by the juvenile court, the condition being that the juvenile attend school regularly, the juvenile court may commit the juvenile to training school, despite the fact that the juvenile has reached an age in excess of 16 years, provided all proceedings pertaining to the juvenile involved have been otherwise in accordance with law.

13 July 1964

COURTS; MAYOR'S COURT; COSTS

Court costs in a mayor's court are the same as in a court of a justice of the peace in the same county and may be changed only through appropriate legislation.

CRIMINAL LAW

26 April 1965

CRIMINAL LAW; BREAKING AND ENTERING; FELONIOUS LARCENY

The larceny of property pursuant to an unlawful breaking and entering is a felony irrespective of the value of the goods stolen.

3 March 1965

CRIMINAL LAW; BREAKING AND ENTERING; WITH INTENT TO COMMIT
LARCENY; WHAT CONSTITUTES FELONY OF LARCENY

G. S. 14-72, as amended, excludes from the misdemeanor larceny classification the theft of goods of any value from a storehouse, shop, etc., by breaking and entering.

5 January 1966

CRIMINAL LAW; CONSERVATION AND DEVELOPMENT; COMMERCIAL FISHING

The provisions of G. S. 113-140 do not provide for the confiscation of fishing boats or vessels.

23 December 1964

CRIMINAL LAW; DRIVING UNDER INFLUENCE OF DRUGS; STATUTE COVERS ONLY NARCOTIC DRUGS

The statute making it a criminal offense to operate a motor vehicle on the highway while under the influence of a narcotic drug does not cover the situation of operating a motor vehicle while under the influence of a non-narcotic drug.

20 August 1964

CRIMINAL LAW; DRUNK DRIVING; OUT-OF-STATE CONVICTIONS INAPPLICABLE TO MAKE THIRD OFFENSE

A person convicted on two previous occasions for drunken driving in another state may not, upon an arrest for driving while under the influence, be charged with a third offense for driving while under the influence.

9 December 1964

CRIMINAL LAW; FIREWORKS; SPARKLERS

Sparklers are fireworks within the meaning of the North Carolina law prohibiting the sale and use of fireworks except under certain special circumstances.

22 October 1964

CRIMINAL LAW; FORNICATION AND ADULTRY; BIGAMY;
STATUTE OF LIMITATIONS

In this State the crime of fornication and adultery, which is a misdemeanor, is subject to a two-year statute of limitations for instituting prosecution. On the other hand, the crime of bigamy is a felony and there is no statute of limitations barring prosecution for this offense.

13 July 1964

CRIMINAL LAW; FRATERNAL ORDERS AND LODGES; UNAUTHORIZED WEARING OF BADGES OR BUTTONS

It is a criminal offense to fraudulently and willfully wear the badge or button of a secret or fraternal society when one is not entitled to.

10 December 1965

CRIMINAL LAW; JURISDICTION TO ENFORCE ON FEDERAL PARKS, PARKWAYS,
FORESTS AND INDIAN RESERVATIONS; STATE HIGHWAY PATROL

The State Highway Patrol has full jurisdiction to enforce the State's criminal laws (including traffic laws) on the Cherokee Reservation.

4 February 1965

CRIMINAL LAW; OBSCENITY; EXHIBITING OBSCENE MOVIES

Under the provision of G. S. 14-189.1 and G. S. 14-193, it is unlawful to exhibit movies that are obscene, lewd and indecent.

14 September 1964

CRIMINAL LAW; POSSESSION AND SALE OF TEAR GAS GUN

The possession, use, sale or transportation of any form of tear gas, or any container or device for holding or releasing the same, is a violation of GS 14-401.6, unless exempted by the proviso thereof.

11 January 1965

CRIMINAL LAW; WEAPONS; CARRYING FIREARMS ON SUNDAY

There is no criminal offense committed in merely carrying a shotgun, rifle or pistol on Sunday. The offense consists of hunting on Sunday while having in one's possession a shotgun, rifle or pistol.

29 March 1965

CRIMINAL LAW; WORTHLESS CHECKS; PARTIAL PAYMENT;
EFFECT ON CRIMINAL OFFENSE

The fact that a person has partially redeemed a worthless check does not nullify the criminal offense in giving the check in the first place.

CRIMINAL PROCEDURE

20 July 1964

CRIMINAL PROCEDURE; APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANT
IN MISDEMEANOR CASE; PAYMENT OF COUNSEL

The State of North Carolina does not pay counsel fees to an attorney appointed to defend an indigent defendant in a general county court; there is no general authority to pay such fees out of the general county court funds or to tax additional costs in criminal cases for such purpose.

7 August 1964

CRIMINAL PROCEDURE; ARREST WITHOUT A WARRANT OF MOTOR VEHICLE
VIOLATOR PURSUED ONTO PRIVATE PROPERTY, OWNER NOT CONSENTING TO
ENTRANCE THEREON

A motor vehicle violator, being pursued onto private property, can be arrested without a warrant even though the owner of the private property has not consented to entrance thereon.

10 June 1965

CRIMINAL PROCEDURE; COSTS; SOLICITORS' FEES; WHEN NOT TAXED

In those instances where the county is required to pay the costs no superior court solicitor's fee is taxed in the costs. Likewise, when the convicted person is sentenced to imprisonment, to be assigned to work on the public roads of the State or on any county property, no solicitor's fee is taxed in the bill of costs.

22 October 1964

CRIMINAL PROCEDURE; FORNICATION AND ADULTRY; BIGAMY;
STATUTE OF LIMITATIONS

In this State the crime of fornication and adultery, which is a misdemeanor, is subject to a two-year statute of limitations for instituting prosecution. On the other hand, the crime of bigamy is a felony and there is no statute of limitations barring prosecution for this offense.

28 June 1965

CRIMINAL PROCEDURE; MUNICIPALITIES; WARRANTS; ISSUANCE OF
WARRANTS; DESIGNATION OF DESK OFFICER

G. S. 160-20.1 provides that an officer of a police department of a municipality of not less than 4,000 population may be designated as a "desk officer" by the chief of police and, thereby, authorized to issue warrants in criminal matters in the same manner, to the same extent, and under the same rules of law as are applicable to the issuance of search warrants by justices of the peace.

1 June 1965

CRIMINAL PROCEDURE; PATERNITY; BLOOD TESTS; EVIDENCE; COMPELLING
TESTS; BASTARDY LAW

In paternity cases, it is mandatory under G. S. 8-50.1, upon proper motion being made, that appropriate blood grouping tests be made and admitted into evidence.

3 August 1965

CRIMINAL PROCEDURE; PRELIMINARY HEARING; WHO MAY HOLD

There is no legal objection to the justice of the peace who issued the warrant in the case, holding a preliminary hearing in the same case.

4 June 1965

CRIMINAL PROCEDURE; SOLICITORS; AUTHORITY OF SOLICITOR
TO TAKE NOLLE PROSEQUI

Whether it is within the power of a solicitor or the court to enter a nol pros when the evidence is insufficient to support a conviction, is within the control of the court, but is usually and properly left to the discretion of the solicitor. *STATE v FURMAGE*, 250 NC 616.

The only difference between a general or unqualified nol pros and a nol pros with leave is that in the latter case the leave to issue a capias is given by the court in advance instead of upon a special application to the court afterwards. *WILKINSON v WILKINSON* 159 NC 265.

1 July 1965

CRIMINAL PROCEDURE; SOLICITORS; NOLLE PROSEQUI;
NO STATUTE OF LIMITATIONS

A solicitor who has taken a nol pros with leave in a felony case is not barred from reopening the case although more than a year has transpired since the nol pros was taken.

3 November 1964

CRIMINAL PROCEDURE; TERMINATION OF PROBATION BY COURT;
NO AUTHORITY TO REINSTATE

Once a judge has issued an order finally terminating a judgment of probation theretofore entered, and no fraud or misrepresentation was involved in securing such termination order, the court is without authority to reinstate such terminated probation.

23 December 1964

CRIMINAL PROCEDURE; WARRANTS; PEACE WARRANTS; AFFIDAVIT

It is not necessary for the complainant to sign more than one affidavit in connection with a peace warrant and it usually is the one attached to the warrant itself.

6 October 1964

CRIMINAL PROCEDURE; SEARCH WARRANTS; LIQUOR SEARCH WARRANTS; AFFIDAVIT; USE OF INFORMANT; WHAT OFFICIALS MAY ISSUE

Under the Fourth and Fourteenth Amendments of the United States Constitution, the affidavit in a State search warrant must contain facts, in writing and in sufficient detail for the issuing magistrate to determine probable cause. The affidavit may be based on hearsay information furnished by informant who need not sign the affidavit himself and whose identity need not be disclosed.

The officials specifically named in GS 18-13, GS 15-25, GS 15-25.1, and any other official authorized by statute to issue warrants, may issue liquor search warrants in North Carolina.

DIVORCES

16 June 1965

DIVORCE; GROUNDS; ONE-YEAR SEPARATION

Since May 20, 1965, a divorce may be obtained on the ground of one year's separation and this is true irrespective of whether any portion of the separation period occurred before May 20, 1965.

DOUBLE OFFICE HOLDING

21 August 1964

**DOUBLE OFFICE HOLDING; CHAIRMAN OF COUNTY BOARD OF ELECTIONS;
JUDGE PRO TEM OF RECORDER'S COURT**

A chairman of a county board of elections and a judge pro tem of a recorder's court are both public offices within the constitutional prohibition against double office holding.

2 July 1964

**DOUBLE OFFICE HOLDING; MAYOR; BOARD OF DIRECTORS OF
ELECTRIC MEMBERSHIP CORPORATION**

Membership on a board of directors of an electric membership corporation is a public office within the meaning of the constitutional provision prohibiting double office holding.

24 January 1966

DOUBLE OFFICE HOLDING; MEMBER STATE EDUCATION ASSISTANCE AUTHORITY

A member of the State Education Assistance Authority, appointed pursuant to GS 116-203, is considered a public officer within the meaning of Article XIV, Section 7, of the North Carolina Constitution.

17 September 1964

DOUBLE OFFICE HOLDING; MEMBER TOWN BOARD OF COMMISSIONERS;
BOARD OF ADJUSTMENT

A member of a town board of commissioners may not serve at the same time as a member of a municipal board of adjustment, since both positions are public offices, and serving in a dual capacity is prohibited by Article XIV, Section 7, of the North Carolina Constitution.

10 November 1964

DOUBLE OFFICE HOLDING; "SUBSTITUTE JUDGE"
OF DOMESTIC RELATIONS COURT; PROHIBITED

A "substitute judge" of a domestic relations court is a public office within the double office holding prohibition of the Constitution.

EDUCATION

21 July 1965

EDUCATION; CIVIL RIGHTS ACT OF 1964; APPLICATION OF TITLE VI TO
PRIVATE RELIGIOUS COLLEGES AND SEMINARIES; PARTICIPATION IN THE RE-
CEIPT OF SURPLUS PROPERTY FROM THE FEDERAL GOVERNMENT

The Civil Rights Act of 1964, and especially Title VI of this Act, is applicable to private theological colleges who participate in Federal programs.

8 July 1964

EDUCATION; COLLEGES; COMMUNITY COLLEGES; TAX-SHELTERED ANNUITIES;
NO ENABLING LEGISLATION EXCEPT FOR PUBLIC SCHOOLS

The enabling act of the 1963 General Assembly, authorizing the purchase of tax-sheltered annuities for teachers, is limited to employees of county and city boards of education. No similar enabling legislation was enacted with respect to other educational institutions.

9 March 1966

EDUCATION; COLLEGES; COMMUNITY COLLEGES; POWERS OF THE BOARD OF TRUSTEES TO BORROW MONEY

Chapter 115-A contains no specific provision providing authority for the Board of Trustees of any community college to borrow money from the State or the United States Government. Therefore, in keeping with the State Board of Education's power to pass rules and regulations implementing Chapter 115-A of the General Statutes, the Board passed a resolution which will allow community colleges to borrow money from the State of North Carolina or Federal Government.

10 September 1964

EDUCATION; COLLEGES; INSTITUTIONS OF HIGHER LEARNING; FRATERNITIES; LANDLORD AND TENANT; LIABILITY OF COLLEGE FOR INJURIES OCCURRING ON PREMISES OF BUILDING LEASED TO FRATERNITY

The fact that a college leases buildings on its campus to a local chapter of a national fraternity does not make this chapter of this national fraternity an instrumentality of State government; where there is a clause in the lease requiring the landlord to repair and maintain the building the usual rule is the landlord is not liable for damages to the tenant or his guests even though the clause is violated.

5 June 1965

EDUCATION; COLLEGES; SPEAKER BAN LAW; COLLEGES AND INSTITUTIONS OF HIGHER LEARNING; PROHIBITING COMMUNIST AND THOSE CLAIMING THE PROVISIONS OF THE FIFTH AMENDMENT FROM SPEAKING ON COLLEGE CAMPUSES

The Speaker Ban Law (Chapter 1207 of the Session Laws of 1963) requires the administrators of a State-supported college to prevent or prohibit a speaker from speaking or lecturing on the college campus if these administrators have reasonable grounds to believe that such a person is a Communist; in the absence of definite information from other sources an inquiry as to Communist affiliations made of the person involved would in most cases be sufficient.

18 November 1965

EDUCATION; EXPENSE GRANTS; PUBLIC SCHOOLS; AUTHORITY TO USE EDUCATION EXPENSE GRANT IN OTHER THAN A SEGREGATED SCHOOL

A parent or guardian applying for an education expense grant because a public school is attended by a child or children of an objectionable race is entitled to have such application approved even though the nonsectarian, private school to which the child transferred is an integrated school and may be attended by children of the objectionable race.

32 July 1965

EDUCATION; PUBLIC SCHOOLS; ACQUISITION OF PROPERTY FOR SCHOOL SITES;
ACQUIRING SITE BY CONDEMNATION; LIMIT ON NUMBER OF ACRES
CONDEMNED

A city or county board of education under the provisions of G. S. 115-125 can only condemn 30 acres for a school site; the board may acquire other lands by purchase.

5 February 1965

EDUCATION; PUBLIC SCHOOLS; AGREEMENTS BETWEEN ADMINISTRATIVE UNITS
AS TO ASSIGNMENT OF PUPILS

Where pupils of a county administrative unit are allowed to attend school in a city administrative unit it is valid and proper for the two boards to agree that such county pupils shall attend only one specific school in the city unit.

8 June 1966

EDUCATION; PUBLIC SCHOOLS; ASSIGNMENT OF PUPILS; RIGHT OF PUPIL TO
ATTEND PUBLIC SCHOOL IN ADMINISTRATIVE UNIT SEPARATE FROM ADMIN-
ISTRATIVE UNIT OF PUPILS HOME OR RESIDENCE; AUTHORITY OF BOARD OF
EDUCATION OF PUPIL'S RESIDENCE OR HOME ADMINISTRATIVE UNIT

The reassignment of a pupil from his or her home administrative unit to another administrative school unit is a matter of mutual agreement of the two administrative units, and the governing authority of the home administrative unit for good cause and proper reasons may refuse to agree to such reassignment.

18 July 1964

EDUCATION; PUBLIC SCHOOLS; AUTHORITY OF BOARD OF EDUCATION TO
ESTABLISH RULES AND REGULATIONS RELATING TO PROMOTIONS,
RETENTIONS AND ABSENCES

Boards of education have authority to enact reasonable regulations for the conduct of the schools within their jurisdiction and to promulgate policies as to promotions, retentions and absences.

13 September 1965

EDUCATION; PUBLIC SCHOOLS; AUTHORITY OF BOARD OF EDUCATION TO
REGULATE THE APPEARANCE AND DRESS OF STUDENTS;
REGULATIONS AS TO HAIRCUTS

A board of education has authority to pass reasonable rules and regulations requiring decent and acceptable dress and accepted fashion or forms of haircuts for pupils attending the public schools.

9 June 1966

EDUCATION; PUBLIC SCHOOLS; AUTHORITY OF COUNTY COMMISSIONERS TO
APPROPRIATE FUNDS TO CURRENT EXPENSE BUDGET FOR SALARY
SUPPLEMENTS; AUTHORITY OF COUNTY TO APPROPRIATE FUNDS TO
BUDGET FOR EMPLOYMENT OF PUBLIC SCHOOL TEACHERS TO BE
PAID ENTIRELY FROM LOCAL FUNDS

The board of county commissioners may appropriate funds to be budgeted and spent by the county board of education for the employment of additional teachers to be paid from such local funds solely and according to a salary schedule adopted by the local board pursuant to G. S. 115-49.

9 November 1964

EDUCATION; PUBLIC SCHOOLS; AUTHORITY OF THE NORTH CAROLINA STATE
BOARD OF EDUCATION TO RECEIVE GIFTS, DONATIONS, AND TO ENTER
INTO CONTRACTS WITH NONPROFIT CORPORATION FOR THE PROMOTION
OF EDUCATIONAL PROJECT; DIRECTOR OF PUBLIC TRUST
CONTRACTING FOR HIS OWN BENEFIT

Under G. S. 115-11, and particularly under subsections (8) and (16) of this Section, the State Board of Education has the right to accept grants from the Federal Government, the Carnegie Foundation, and to use State funds left in the various budgets of the nine months school term for the purpose of operating Learning Institute of North Carolina and the Advancement School, and this can be done under contracts and subcontracts entered into between the Board of Education, the Federal Government and Learning Institute of North Carolina, which is a nonprofit corporation.

26 October 1964

EDUCATION; PUBLIC SCHOOLS; AUTHORITY OF SCHOOL BOARD TO GRANT
EASEMENT ACROSS SCHOOL PROPERTY FOR MAINTENANCE OF
SEWER LINE

A school board has the duty to furnish water carried sewer facilities to a school building if possible and for this purpose may grant an easement to a municipal corporation if the municipal corporation permits the school board to connect with its sewer facilities.

18 February 1966

EDUCATION; PUBLIC SCHOOLS; BOARD OF EDUCATION ADMINISTRATIVE
OFFICES BUILDING; USE OF CAPITAL OUTLAY RESERVE FUNDS FOR THE
CONSTRUCTION OF ADMINISTRATIVE OFFICES BUILDING

A school board may use funds from the capital reserve fund to finance the construction of a building to be used as offices or quarters for the administrator and his staff in the operation of the public schools.

16 August 1965

EDUCATION; PUBLIC SCHOOLS; BOND ISSUE; SCOPE OF BOND ORDER;
EXPENDITURE OF BOND FUNDS FOR THE PURCHASE OF
MOBILE CLASSROOMS

A bond issue for school purposes based upon a bond order which provides that the proceeds of the bond issue may be spent for additional school plant facilities and which recites various new buildings and additions and other school plant facilities is broad enough to permit the expenditure of bond proceeds for mobile classrooms.

10 May 1965

EDUCATION; PUBLIC SCHOOLS; BUSES; SALE OF OLD SCHOOL BUSES

Discarded school buses may be sold by the Board of Education under G. S. 115-126(b) or the Board, under regulations of the Division of Purchase and Contract, may have a fair price established for such vehicle and accept the first offer meeting the price asked.

15 January 1966

EDUCATION; PUBLIC SCHOOL; CHANGE OF BOUNDARY LINES BETWEEN CITY
AND COUNTY ADMINISTRATIVE UNIT; TRANSFER OF SCHOOL BUILDING
LOCATED IN CITY UNIT TO COUNTY UNIT; EFFECT ON DISTRIBUTION
OF BOND FUNDS PAID TO COUNTY AND CITY UNITS UNDER THE
PUBLIC SCHOOL FACILITIES BOND ACT OF 1963

Where the boundary lines are changed between a city administrative school unit and a county administrative school unit with the result that a school building in the city unit is transferred to the county unit, the board of education of the city unit may allocate and pay over to the board of education of the county unit the proper or pro rata share of bond funds which have been paid to the city unit under the Public School Facilities Bond Act of 1963.

30 August 1965

EDUCATION; PUBLIC SCHOOLS; CHARGING SCHOOL FEES AFTER COUNTY
CONVERTED INTO ONE DISTRICT

The fact that a county board of education has adopted a one-district plan does not alter or change the basis of charging different fees in different schools.

16 February 1965

EDUCATION; PUBLIC SCHOOLS; CITY BOARD OF EDUCATION; AUTHORITY OF
CITY BOARD OF EDUCATION TO BORROW FUNDS IN ANTICIPATION OF THE
RECEIPT OF FUNDS FROM THE PUBLIC SCHOOL FACILITIES BOND
ACT OF 1963

A local board of education does not have authority to borrow money

from banks or individuals in anticipation of repayment of funds derived from the 1963 School Facilities Bond Act.

11 July 1964

EDUCATION; PUBLIC SCHOOLS; CONSOLIDATION OR MERGER OF EXISTING CITY
ADMINISTRATIVE UNITS; CONSTITUTIONAL VALIDITY OF MERGER OF
EXISTING CITY ADMINISTRATIVE UNITS

Two city administrative units whose boundaries adjoin each other could legally merge and consolidate into one administrative unit by means of a local act of the General Assembly. The General Statutes (Chapter 115) provides methods whereby a territory in a school district of a county administrative unit can be annexed to a city unit.

14 July 1965

EDUCATION; PUBLIC SCHOOLS; CONSTITUTIONAL LAW; EDUCATION EXPENSE
GRANTS; LEGAL VALIDITY OF TUITION EXPENSE GRANTS FOR
ATTENDANCE AT PRIVATE, NONSECTARIAN SCHOOL; ARTICLE IX,
SECTION 12, CONSTITUTION OF NORTH CAROLINA

Education or tuition expense grants made for the purpose of paying the tuition of eligible children for attendance at private, nonsectarian schools where such schools have their own independent financial structure and do not exist primarily because of such tuition grants are constitutional, legal and valid.

Article 35 of Chapter 115 of the General Statutes.

5 June 1965

EDUCATION; PUBLIC SCHOOLS; CONSTITUTIONAL LAW; SEPARATION OF
CHURCH AND STATE; VALIDITY OF RELEASE TIME APPROVED BY PARENTS
FOR RELIGIOUS INSTRUCTION OF PUPIL

Release of a public school pupil from the public school for a period of one hour a week for religious instruction in a church of an established religious denomination and at the request of the parents is lawful and valid and is not a violation of the State or Federal Constitutions.

8 March 1966

EDUCATION; PUBLIC SCHOOLS; CONTRACT BETWEEN SCHOOL BOARD AND
ARCHITECTS; TIME OF PAYMENT OF PERCENTAGE OF FEES DUE
UNDER CONSTRUCTION DOCUMENTS PHASE

In an architect's contract the period known as "Construction Documents Phase" and the work and proceedings on the part of the architects contemplated and defined by these terms does not end until bids for construction are awarded and approved by the governmental authorities.

21 June 1965

EDUCATION; PUBLIC SCHOOLS; CONTRACTS FOR PURCHASE OF YEAR BOOKS,
CLASS RINGS, PHOTOGRAPHY AND MOBILE CLASSROOMS, ETC; PUBLIC
CONTRACTS LAW; ADVERTISEMENT IN NEWSPAPER FOR BIDS

The Department of Purchase and Contract may delegate to school boards the authority to make local purchases but where the purchase of equipment and supplies involves more than the statutory exemption, then such requirements must be submitted in the form of proposals for bids and published in the newspaper as required by G. S. 143-129.

9 September 1964

EDUCATION; PUBLIC SCHOOLS; CONTROL OF LOCAL SCHOOL COMMITTEE OVER
TIME OF OPERATION OF SCHOOL BUSES AND LENGTH OF SCHOOL DAY

The county board of education has the authority in a county administrative unit to fix the length of the school day and together with the superintendent has control over the transportation system of the public schools. The board of education and the superintendent may require students to wait 20 minutes longer in the day in order to accommodate the departure on the school bus of other students.

17 March 1965

EDUCATION; PUBLIC SCHOOLS; CONVEYANCE OF PROPERTY UPON
ENLARGEMENT OF ADMINISTRATIVE UNIT

When a city administrative unit is enlarged and takes within its boundaries a tract of land and school building belonging to a county administrative unit, then the two boards may agree as to the transfer of property as provided by G. S. 115-122.2. The fact that an agreement as to the transfer of property was made and not carried out does not prohibit the transfer from now being made.

29 September 1964

EDUCATION; PUBLIC SCHOOLS; CORRECTION OR PUNISHMENT BY DEDUCTING
POINTS OR LOWERING A PUPIL'S GRADE; RETROACTIVE APPLICATION
OF GRADE DEDUCTION

A student in the public schools who has legitimately earned a grade in his subjects cannot have that grade reduced for future acts of misconduct or bad deportment as this would be a retroactive application of such a rule; students can have their grades reduced by unexcused absences or other factors which are applicable to a grading period and which the student knows about when he begins the grading period.

5 September 1964

EDUCATION; PUBLIC SCHOOLS; CORRECTION OR PUNISHMENT OF
STUDENT BY REDUCING GRADES

A faculty handbook approved by a county board of education which

provides for a reduction of grades over a grading period for unexcused absences contains a legal and valid regulation and is within the scope of the authority of the county board of education and the administrative officials of the school.

14 December 1965

EDUCATION; PUBLIC SCHOOLS; COUNTY BOARD OF EDUCATION; DIRECTOR OF PUBLIC TRUST; CONFLICT OF INTEREST; REMOVAL OF MEMBERS OF BOARD OF EDUCATION; DUTY OF STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

Upon receiving evidence that a member or members of a board of education may have illegally performed their duties, the State Superintendent of Public Instruction should present this evidence to the remaining members of the board of education for such action as they see fit under the provisions of G. S. 115-30.

5 June 1965

EDUCATION; PUBLIC SCHOOLS; DELEGATION OF AUTHORITY TO ADVISORY COUNCIL TO RECOMMEND TO SUPERINTENDENT EMPLOYMENT OF TEACHERS, JANITORS, MAIDS, LUNCH ROOM AND SCHOOL BUS DRIVERS

A county administrative school unit which operates on the one-district plan may appoint advisory councils for schools and may delegate to these advisory councils the duty of making recommendations to the superintendent of schools as to the employment of teachers, janitors, maids, and other school employees.

14 July 1965

EDUCATION; PUBLIC SCHOOLS; EDUCATION EXPENSE GRANTS; CONSTITUTIONAL LAW; LEGAL VALIDITY OF TUITION EXPENSE GRANTS FOR ATTENDANCE AT PRIVATE, NONSECTARIAN SCHOOL; ARTICLE IX, SECTION 12, OF CONSTITUTION OF NORTH CAROLINA

Education or tuition expense grants made for the purpose of paying the tuition of eligible children for attendance at private, nonsectarian schools where such schools have their own independent financial structure and do not exist primarily because of such tuition grants are constitutional, legal and valid.

18 February 1965

EDUCATION; PUBLIC SCHOOLS; ELECTIONS HELD; DEFINITION OF POLITICAL SUBDIVISION WITH CURRENT REGISTRATION BOOKS

Where a city administrative unit is comprised of territory that extends beyond the corporate limits of the city and this extended territory has three precincts for county election purposes, the county administrative unit is not an organized political subdivision with current registration

books, and, therefore, in an election on the question of levying a school tax the board of county commissioners would have to order a new registration.

10 January 1966

EDUCATION; PUBLIC SCHOOLS; EMPLOYMENT OF PRINCIPALS AND TEACHERS;
REVOCATION OF CERTIFICATES

Under the provision of G. S. 115-145, as amended by the Session Laws of 1965, the State Superintendent of Public Instruction has a right to revoke a teacher's certificate issued by this State because of a conviction in another State of a disreputable offense.

28 July 1965

EDUCATION; PUBLIC SCHOOLS; EMPLOYMENT STATUS OF SUPERINTENDENTS,
PRINCIPALS AND TEACHERS CALLED TO ACTIVE DUTY IN MILITARY SERVICE

Superintendents, principals and teachers who are called to active duty in military service are entitled to leave of absence and to be restored to their jobs or positions when released from active duty if they are physically and mentally able to continue to perform their duties.

15 October 1965

EDUCATION; PUBLIC SCHOOLS; ENROLLMENT OF CHILD DURING THE FIRST
MONTH OF SCHOOL; WAIVER OF ENROLLMENT

Where a child participates in pre-school registration but goes with his father on a trip to another state and wishes to enroll later in the term, then the child should be enrolled since the failure of the principal to advise the parent as to the enrollment conditions constitutes a waiver.

19 June 1965

EDUCATION; PUBLIC SCHOOLS; ENROLLMENT OF CHILD OF PARENTS WHO ARE
BRITISH SUBJECTS; ENROLLMENT OF PUPIL WHO HAS NOT PASSED SIXTH
ANNIVERSARY OF BIRTH; TREATIES BETWEEN FOREIGN NATIONS

Under treaties between the United States and Great Britain we extend reciprocal privileges as to the nationals of each nation and a child coming from England who would be entitled to enroll in the public schools of that nation prior to his sixth anniversary of birth is entitled to be enrolled in the public schools of this State.

19 June 1965

EDUCATION; PUBLIC SCHOOLS; ENROLLMENT OF PUPILS WHO HAVE ATTENDED
KINDERGARTEN IN ANOTHER STATE; ENROLLMENT OF PUPILS FORMERLY EN-
ROLLED IN A DEPARTMENT SCHOOL IN FOREIGN COUNTRY WHICH DEPENDENT
SCHOOL IS OPERATED BY U. S. DEPARTMENT OF EDUCATION

Children who have completed kindergarten in other states may enroll in the public schools of this State under G. S. 115-162, although they have not

passed the sixth anniversary of birth, and the same is true of children who have attended dependent schools in foreign nations operated by the U. S. Office of Education.

22 March 1966

EDUCATION; PUBLIC SCHOOLS; ESTABLISHING ADVISORY COMMITTEE; SCHOOL
COMMITTEE AUTHORIZED BY LOCAL ACT; REPEAL OF LOCAL ACT
BY GENERAL ACT

A school committee established for a school district by a local act is not abolished by a general law giving school boards power to abolish all committees and appoint an advisory committee in lieu thereof.

5 April 1965

EDUCATION; PUBLIC SCHOOLS; FEDERAL AID TO EDUCATION ACT; BOOKS,
TEXTBOOKS, AND INSTRUCTIONAL MATERIALS PLACED IN PUBLIC SCHOOL
LIBRARIES TO BE CHECKED OUT TO NONPUBLIC SCHOOLS

Public school libraries are authorized to receive books and instructional materials to be checked out to nonpublic schools as a part of a grant-in-aid program to the public schools.

13 September 1965

EDUCATION; PUBLIC SCHOOLS; GOVERNMENT IN BUSINESS; CIVIC CLUB SELL-
ING SOFT DRINKS AND OTHER REFRESHMENTS WITH PROFITS DONATED TO THE
ATHLETIC FUND OF THE SCHOOL

The statue prohibiting government in business would prohibit clubs from selling candies and drinks at athletic contests and donating the profits to the school athletic fund.

22 February 1965

EDUCATION; PUBLIC SCHOOLS; INSTRUCTION IN TRADE AND INDUSTRIAL
EDUCATION; SUMMER SCHOOLS FOR TRADE AND INDUSTRIAL EDUCATION

County and city school boards in cooperation with the State Board of Education and the Superintendent of Public Instruction are authorized to establish summer schools for the purpose of giving instruction in vocational, trade and industrial education, and are authorized to expend local funds for such purpose in accordance with State and Federal grants.

30 August 1965

EDUCATION; PUBLIC SCHOOLS; INVESTMENT OF SURPLUS FUNDS

Surplus school funds may be deposited in banks on certificate of deposit

but there is no authority for investing said funds in various types of securities and debentures.

27 July 1965

EDUCATION; PUBLIC SCHOOLS; KINDERGARTENS; INCLUSION OF FUNDS IN LOCAL BUDGETS FOR KINDERGARTENS; MEANING OF PHRASE, "ESTABLISHED IN ANY OTHER MANNER."

Kindergartens are part of the public school system but it requires a special tax to support a kindergarten if such schools are established; support of kindergartens is not included in a general tax supplement; private kindergartens are subject to the supervision of the State Department of Public Instruction.

23 July 1965

EDUCATION; PUBLIC SCHOOLS; LEASE OF PUBLIC SCHOOL PROPERTY; AGREEMENT AS TO USE OF PROPERTY IN EXCHANGE FOR DEVELOPMENT OF LITTLE LEAGUE BASEBALL PARK

A school board cannot lease its property longer than for a term of one year; there is, however, a distinction between a lease and a permit to use property.

23 April 1965

EDUCATION; PUBLIC SCHOOLS; LIABILITY OF BOARDS OF EDUCATION AND MEMBERS OF SUCH BOARDS IN NEGLIGENCE OR TORT ACTIONS; PURCHASE OF LIABILITY INSURANCE BY CITY OR COUNTY BOARD OF EDUCATION

Boards of education are sovereign units of government and such boards and their members are not liable in tort actions or in negligence actions because of their acts or the acts of their employees; there is an individual liability of a particular member if it can be proved that he acted corruptly or maliciously; probably the safest thing for a board to do is to procure liability insurance.

29 March 1966

EDUCATION; PUBLIC SCHOOLS; LIABILITY OF BOARDS OF EDUCATION FOR DAMAGES IN THE USE OF POND USED AS PART OF EDUCATIONAL FACILITIES AND FOR CAMPUS BEAUTIFICATION

A school board is not liable for damages for death or injury caused by maintaining a pond of water on the campus of a school which is used for agricultural extension service. The board of education may secure insurance to protect it in this respect and to the extent of the insurance would waive governmental immunity.

19 June 1965

EDUCATION; PUBLIC SCHOOLS; LOCAL IMPROVEMENTS; PAVING STREETS WITH
CURBS AND GUTTERS; AUTHORITY OF SCHOOL BOARD TO PAY PRO RATA SHARE
OF COST OF LOCAL IMPROVEMENT

City and county boards of education are liable for their pro rata share of local improvements such as curbs and gutters and can voluntarily petition for and pay for such improvements.

2 June 1966

EDUCATION; PUBLIC SCHOOLS; MEMBERSHIP OF COUNTY BOARD OF EDUCATION;
REMOVAL OF MEMBER OF COUNTY BOARD OF EDUCATION; INVESTIGATING
CHARGES; INVESTIGATION BY MEMBERS OF BOARD OTHER THAN ALLEGED
OFFENDING MEMBER

Upon the question of the proposed removal of two members of a county board of education under the authority of G. S. 115-30, one of two alleged offending members having been exonerated, this member is entitled to sit with the other members to determine whether formal charges should be made against the remaining member, and, if such charges are made, to sit with the other members on a formal hearing to investigate the charges.

19 June 1965

EDUCATION; PUBLIC SCHOOLS; 1963 SCHOOL BOND ACT TO PROVIDE FUNDS FOR
PUBLIC SCHOOL FACILITIES; ADMINISTRATIVE UNIT CREATED WITHIN A
COUNTY SUBSEQUENT TO THE PASSAGE OF THE 1963 STATE SCHOOL BOND ACT

A new city administrative unit created subsequent to the passage of the School Bond Act of 1963 is not entitled to share in any of the bond funds allocated by the Bond Act.

18 February 1966

EDUCATION; PUBLIC SCHOOLS; OFFICES FOR ADMINISTRATIVE PERSONNEL OF
PUBLIC SCHOOLS; OBLIGATIONS OF COUNTIES TO FURNISH OFFICE SPACE FOR
ADMINISTRATIVE SCHOOL PERSONNEL; ADMINISTRATIVE PERSONNEL OF
COUNTY SCHOOL UNITS AND CITY SCHOOL UNITS

Offices and quarters for school administrators and their personnel are a necessary part of the capital outlay funds, and such quarters or buildings are a component part of school facilities. As to what buildings or quarters should be furnished for these purposes, the matter is for the consideration of the school boards and the boards of county commissioners when the budget is prepared.

11 October 1965

EDUCATION; PUBLIC SCHOOLS; OPERATION OF BUSES ON PRIVATE ROADS

School bus routes should be normally over State-maintained highways but

other types of roads can be used where road or other conditions would make this ruling advisable.

3 September 1965

EDUCATION; PUBLIC SCHOOLS; OPERATION OF PUBLIC SCHOOL STORES; GOVERNMENT IN BUSINESS; PROHIBITED SALE OF COMPETITIVE ARTICLES; SALE OF INSTRUCTIONAL SUPPLIES AND BOOKS; PENALTIES FOR VIOLATING THE STATUTE

Public school stores may sell books, forms, bulletins and instructional supplies but they may not sell other items of merchandise in competition with private enterprise which is prohibited by Article II of Chapter 66 of the General Statutes.

24 August 1965

EDUCATION; PUBLIC SCHOOLS; OPERATION OF SCHOOL STORES FOR PROFIT; GOVERNMENT IN BUSINESS

Public Schools have no legal authority to operate stores in which items are sold in competition with merchants of the State. The only exception is the school food service or cafeterias.

15 February 1966

EDUCATION; PUBLIC SCHOOLS; PHYSICAL EDUCATION AND RECREATIONAL ACTIVITIES; FACILITIES FOR PHYSICAL EDUCATION AND FOR ATHLETIC EVENTS AS PART OF THE TOTAL SCHOOL PROGRAM; CONSTRUCTION OF STADIUM WITH ATHLETIC FIELD AND FLOODLIGHTS

The construction of a stadium which is to be lighted, along with other facilities, including an athletic field, is a part of a public school program, and it is not unlawful for a board of education to have such facilities constructed on its property.

12 January 1966

EDUCATION; PUBLIC SCHOOLS; PRIVATE SCHOOLS; APPROVED PRIVATE SCHOOLS; INSTRUCTION IN HOME IN LIEU OF ATTENDING A PUBLIC SCHOOL

It is the duty of the State Board of Education acting under the statutes and regulations to determine whether or not a non-public educational system meets its criteria as a non-public school.

10 January 1966

EDUCATION; PUBLIC SCHOOLS; PUBLIC CONTRACTS ACT; ASSIGNMENT OF CONTRACT AWARDED UPON BID

A contractor awarded a bid may procure the services of another con-

tractor to carry out the bid or contract, and it is not objectionable if the bonding company issues a bond for the second contractor.

29 January 1965

EDUCATION; PUBLIC SCHOOLS; PUNISHMENT AND DISCIPLINE OF STUDENTS;
SUSPENSION AND EXPULSION

Public school pupils are subject to the reasonable rules and regulations of Board of Education both as to regular school activities and extra curricular activities; a pupil guilty of immoral or disreputable conduct who is a menace to the school can be expelled or suspended and in this state corporal punishment is legal and can be administered.

17 October 1964

EDUCATION; PUBLIC SCHOOLS; PUPIL DISCIPLINE; COMPULSORY ATTENDANCE
LAW; PUPIL GIVING BIRTH TO ILLEGITIMATE CHILD

A pupil who has an illegitimate child can be suspended and be allowed to return to school on trial or probation.

12 May 1966

EDUCATION; PUBLIC SCHOOLS; PUPILS; PUBLIC HEALTH; MEDICAL AND
PHYSICAL EXAMINATIONS; STATUTORY AUTHORITY

Pupils attending the public schools are subject to medical examinations pursuant to rules adopted by virtue of State law.

18 March 1965

EDUCATION; PUBLIC SCHOOLS; PUPILS RESIDING IN ONE ADMINISTRATIVE
UNIT ATTENDING THE SCHOOLS OF ANOTHER ADMINISTRATIVE UNIT;
TUITION CHARGES

Under the provisions of G. S. 115-176 the school boards of county and city administrative Units may agree upon the terms and conditions under which pupils residing in one administrative unit may attend the schools in another administrative unit; absent such agreement no administrative unit is compelled to accept the pupils of another administrative unit.

26 January 1965

EDUCATION; PUBLIC SCHOOLS; PURCHASE OF MILK; DIRECTOR OF DAIRY WHO
IS ALSO MEMBER OF BOARD OF EDUCATION; DIRECTOR OF PUBLIC TRUST
CONTRACT FOR HIS OWN BENEFIT

Where a Director of a dairy is also a Member of a Board of Education of a county, it would be a conflict of interest and a violation of G. S. 14-234 for the Board of Education to buy milk from a dairy of which this member is a Director.

9 July 1964

EDUCATION; PUBLIC SCHOOLS; REFUSAL TO ADMIT PUPIL TO EXAMINATION
BECAUSE OF NONPAYMENT OF TUITION

Where a pupil resides outside a school district which has a supplementary tax but who attends school in such district upon a tuition basis the school board can exclude the pupil from school unless satisfactory arrangements are made for the tuition.

19 August 1965

EDUCATION; PUBLIC SCHOOLS; REMOVAL OF COUNTY OR CITY SUPERINTEN-
DENT FOR CAUSE; PROCEDURE; NOTICE AND HEARING; FINDINGS
OF FACT AND DECISION

Under the provisions of G. S. 115-42 a county or city superintendent who is guilty of immoral or disreputable conduct or who fails or refuses to perform the duties required of him by law may be removed from office; before such removal is ordered the superintendent is entitled to notice of the charges against him and opportunity to be heard in a full and fair hearing, and the board of education should make specific findings of fact.

15 October 1965

EDUCATION; PUBLIC SCHOOLS; REMOVAL OF PRINCIPALS AND TEACHERS FOR
CONVICTION OF CRIME INVOLVING MORAL TURPITUDE

Where a principal of a school is charged with falsely representing his attendance reports but the solicitor accepts a plea of forcible trespass this would not involve moral turpitude and the State Superintendent of Public Instruction would have no right to revoke the principal's certificate.

21 January 1965

EDUCATION; PUBLIC SCHOOLS; SENIOR CLASS FUNDS; USE AS ALUMNI FUND
OR DEPOSIT IN GENERAL FUNDS OF SCHOOL

Money raised by senior class in the public schools by means of the sale of magazines and barbecue supper can be kept in a private special deposit in the bank as a class alumni fund.

5 June 1965

EDUCATION; PUBLIC SCHOOLS; SPEAKER BAN LAW; COLLEGES AND INSTITU-
TIONS OF HIGHER LEARNING; CHAPTER 1207 OF THE SESSION LAWS OF 1963,
PROHIBITING COMMUNIST AND THOSE CLAIMING THE PROVISIONS OF THE
FIFTH AMENDMENT FROM SPEAKING ON COLLEGE CAMPUSES

The Speaker Ban Law (Chapter 1207 of the Session Laws of 1963) requires the administrators of a State-supported college to prevent or prohibit a speaker from speaking or lecturing on the college campus if these admin-

istrators have reasonable grounds to believe that such a person is a Communist; in the absence of definite information from other sources an inquiry as to Communist affiliations made of the person involved would in most cases be sufficient.

6 January 1965

EDUCATION; PUBLIC SCHOOLS; STATE BOND ISSUE FOR PUBLIC SCHOOL FACILITIES; ERECTION AND RENOVATION OF SCHOOLHOUSES; CONTRACTING FOR MORE MONEY THAN IS MADE AVAILABLE; LETTING CONTRACTS IN ANTICIPATION OF RECEIVING STATE BOND FUNDS

The School Facilities Bond Act of 1963 (Chapter 1079 of the Session Laws of 1963) makes its own allocation of funds to each administrative unit and when the State Board of Education approves plans for the erection and renovation of school facilities the city or county board of education may proceed to let contracts for such work since the statutory allocations upon approval of plans constitute money available for contract purposes.

17 February 1966

EDUCATION; PUBLIC SCHOOLS; STATE INSURANCE OF PUBLIC SCHOOL PROPERTY; USE OF INSURANCE FUNDS WHERE SCHOOL BUILDING IS DESTROYED BY FIRE; USE OF INSURANCE FUNDS TO PURCHASE SCHOOL BUILDING SITE

Where a school building insured under the State Insurance Fund is destroyed by fire, if the building is replaced the board of education can use some of the funds to buy a new school building site for the replacement of said building.

29 March 1966

EDUCATION; PUBLIC SCHOOLS; STATUTES; REPEAL BY IMPLICATION; DUTY TO RECONCILE STATUTES ON THE SAME SUBJECT MATTER

Two local acts dealing with the issuance of bonds for school purposes, one of which also includes authority to vote on a supplemental tax, are not necessarily inconsistent with each other and the later act does not repeal the former act.

21 June 1965

EDUCATION; PUBLIC SCHOOLS; TAX LEVY FOR DEBT SERVICE; USE OF DEBT SERVICE FUNDS FOR CAPITAL OUTLAY ITEMS

Funds accumulated by a debt service tax levy cannot be used for capital outlay objects or items of expenditure; such funds may be used to discharge a debt owed by the board of education to the board of county commissioners or to purchase outstanding county school refunding bonds.

14 June 1966

EDUCATION; PUBLIC SCHOOLS; TEACHERS; AUTHORITY TO ASSIGN TEACHER
SUFFERING FROM PHYSICAL DISABILITY TO A LESS STRENUOUS POSITION AND
EMPLOY ANOTHER PERSON

A board of education has a right to assign a teacher suffering from some physical disability to a less strenuous position and to employ an additional teacher to be paid from supplementary tax funds.

There is no general authorization which permits boards of education to insure teachers for a period of one year to provide for full or partial salary extension for teachers who become disabled.

10 June 1966

EDUCATION; PUBLIC SCHOOLS; TECHNICAL INSTITUTES; AUTHORITY OF BOARD
OF EDUCATION, BOARD OF COUNTY COMMISSIONERS AND A TECHNICAL INSTI-
TUTE TO ENTER INTO CONTRACT FOR THE USE OF PUBLIC SCHOOL FACILITIES;
AUTHORITY OF BOARD OF EDUCATION TO USE FUNDS TO MAINTAIN
THE FACILITY

A board of education and a board of county commissioners have authority to enter into a contract whereby a technical institute will give technical training as an extension service of facilities provided by these two county boards.

13 April 1965

EDUCATION; PUBLIC SCHOOLS; TEXTBOOKS; REPORT OF TEXTBOOK
COMMISSION; CLERICAL ERROR IN FAILURE TO TABULATE COMPLETE BID

An inadvertence or error in failing to tabulate a bid on a laboratory guide to accompany textbook already adopted is not fatal to the bid and the State Board of Education can subsequently approve and adopt the laboratory guide.

22 February 1965

EDUCATION; PUBLIC SCHOOLS; TRANSPORTATION OF PUPILS FOR VOCATIONAL
EDUCATION ON REGULAR SCHOOL BUSES; OFF-CAMPUS CLASSES; LIABILITY
FOR INJURIES TO STUDENTS UNDER TORT CLAIMS ACT WHILE BEING TRANS-
PORTED TO AND FROM CONSOLIDATED HIGH SCHOOLS FOR OFF-CAMPUS CLASSES

Students transported from consolidated high schools to other school buildings and facilities, which are off the campuses of such high schools, for the purposes of taking courses in vocational education would be covered under the Tort Claims Act as provided by G. S. 143-300. 1.

14 September 1965

EDUCATION; PUBLIC SCHOOLS; UNLAWFUL COMPETITION WITH PRIVATE
BUSINESS BY GOVERNMENTAL UNITS

Under the provisions of Article II of Chapter 66 of the General Statutes prohibiting government from competing with private business public schools should not sell pictures or insurance or allow pupils to enter into magazine subscription campaigns or to sell candy, either to residents or at athletic contests.

19 October 1964

EDUCATION; PUBLIC SCHOOLS; USE OF BOND FUNDS ALONG WITH AVAILABLE
FEDERAL FUNDS FOR CONSTRUCTION AND IMPROVEMENT OF PUBLIC SCHOOL
FACILITIES; DISCRETION OF COUNTY AND CITY ADMINISTRATIVE UNITS AND
STATE BOARD OF EDUCATION

Chapter 1079 of the Session Laws of 1963 authorizing a bond issue to aid public schools in construction and other capital outlay projects, permits a local administrative unit to enter into agreements, along with the State Board of Education, for the use of federal funds but does not compel any such local unit to make any such agreements if it does not desire to do so.

1 September 1965

EDUCATION; PUBLIC SCHOOLS; USE OF PROCEEDS OF SUPPLEMENTAL TAX

Proceeds derived from supplemental taxes may be used to supplement current expense items, to employ teachers, to purchase library books and for educational items alone; such funds cannot be used for capital outlay items and for extracurricular activities. Chapter 451 of the Session Laws of 1947.

9 July 1964

EDUCATION; PUBLIC SCHOOLS; USE OF SCHOOL PROPERTY FOR LOCATION OF
FIRE DEPARTMENT

A public school board which has surplus real property can sell a portion of same to a fire department but the sale would have to be made through public auction; if the fire department is a quasi-municipal corporation then the school board can grant an easement for a fire station.

21 March 1966

EDUCATION; RESIDENCE OF STUDENTS; TUITION CHARGES OF STUDENTS
WHOSE PARENTS HAVE MOVED OUT OF THE STATE

Where students under 21 years of age enroll in a college maintained by the State and subsequent to such enrollment the parents of the students move outside this State to another state, then the legal settlement of such

students would follow the parents, and these students should be charged out-of-state tuition.

21 January 1965

EDUCATION; TECHNICAL INSTITUTES; BOARD OF TRUSTEES; AUTHORITY TO BORROW MONEY TO PURCHASE BUILDING SITE; METHOD OF FINANCING

The board of trustees of a technical institute does not have legal authority to borrow money and contract debts since the financing of such a technical institute is fixed by statute according to a budget of local and State funds.

28 November 1964

EDUCATION; UNIVERSITIES AND COLLEGES; LIABILITY FOR INJURY TO STUDENT NURSES TRANSPORTED TO OFF-CAMPUS HOSPITAL

A bus owned by a hospital and driven by a part-time employee of a college would render the college liable under the Tort Claim Act for acts of negligence on the part of the driver.

25 August 1965

EDUCATION; UNIVERSITY OF NORTH CAROLINA; TRESPASS ON PROPERTY OF THE UNIVERSITY; AUTHORITY OF THE STATE OR ONE OF ITS AGENCIES TO AVAIL ITSELF OF THE GENERAL TRESPASS LAWS; DELEGATION OF AUTHORITY TO EXECUTE WARRANTS IN CRIMINAL PROSECUTIONS

The University of North Carolina has a right to avail itself of the general trespass statutes of the State dealing with criminal trespass, and the Board of Trustees has a right to delegate authority to its agents to execute criminal warrants.

ELECTIONS

28 October 1964

ELECTIONS; ARRANGEMENT OF BALLOT ON VOTING MACHINES; POSITION OF CONGRESSMAN ON VOTING MACHINE LABEL

The label on a voting machine for the office of congressman should be placed along with the State ticket and at the end of the ticket; while the office of Congressman is a federal office the results of the election for the office of Congressman are tabulated, canvassed and judicially determined by the State Board of Elections.

9 November 1964

ELECTIONS; ARRANGEMENT OF BALLOT; WRITE-IN VOTE

Where there is no candidate for a township office the office is not brought into the election process and there merely exists a vacancy; write-in votes

on a ballot for State Senator and Representative for this township office are therefore not valid.

4 March 1965

ELECTIONS; AUTHORITY OF COUNTY BOARD TO ALTER, COMBINE AND
REARRANGE PRECINCTS; ONE POLLING PLACE MUST BE IN
EACH TOWNSHIP

GS 163-5 requires elections to be held in each township for township officers. Therefore, precinct lines should not cross township lines unless adequate provision is made for voters in each township to cast ballots for township officers in their respective townships.

13 August 1964

ELECTIONS; AUTHORITY OF COUNTY OR STATE BOARD OF ELECTIONS TO
REFUSE TO PLACE NAME OF CANDIDATE ON BALLOT FOR DISLOYALTY
TO PARTY

While the candidate of a political party certifies or asserts that he will support the candidates of the party, nevertheless, in the general election a candidate, just as a voter, may support the candidates of his own selection and is not compelled to support all the candidates of his political party.

1 October 1964

ELECTIONS; CITIZENSHIP; PERSON CONVICTED OF FEDERAL OFFENSE NOT
DISQUALIFIED TO VOTE IN GENERAL ELECTION FOR STATE, COUNTY
OR FEDERAL OFFICERS

A person convicted of a Federal offense is not disqualified from voting for any office which appears on the official ballot used in the State of North Carolina in a general election.

17 November 1965

ELECTIONS; DISTRICT JUDGES; GENERAL COURT OF JUSTICE; NOTICE OF
CANDIDACY FILED WITH STATE BOARD OF ELECTIONS

District Court Judges of the General Court of Justice are State officers and should file notice of candidacy with the State Board of Elections as required by GS 163-119 and GS 7A-147.

30 November 1964

ELECTIONS; JUSTICES OF THE PEACE; NUMBER OF VOTES REQUIRED TO ELECT
A WRITE-IN CANDIDATE IN A GENERAL ELECTION

GS 163-91 provides that, as a prerequisite to being elected, a write-in candidate must receive as many as 5% of the votes cast for candidates for

Congress in the township, county or other jurisdiction in which said write-in candidate is running.

1 July 1964

ELECTIONS; ORGANIZATION OF NEW POLITICAL PARTY; CERTIFICATION OF NAMES SIGNED TO PETITION BY CHAIRMAN OF COUNTY BOARD OF ELECTIONS; AUTHORITY OF BOARD OF COUNTY COMMISSIONERS TO APPROPRIATE FUNDS TO PAY FOR CLERKS OR ASSISTANTS TO CHAIRMAN OF COUNTY BOARD OF ELECTIONS FOR PURPOSE OF CHECKING SIGNATURES ON PETITIONS TO CREATE
NEW PARTY

Where the election statute in the creation of a new political party requires that the names on petitions be checked and certified by the chairman of the county board of elections and this occurs during a second State-wide primary the county board of elections has authority to employ necessary clerks or assistants to verify the signatures on the petitions and it is the duty of the board of elections, with the approval of the board of county commissioners, to compensate such clerks or assistants.

16 July 1964

ELECTIONS; ORGANIZATION OF NEW POLITICAL PARTY; CHANGE OF PARTY AFFILIATION; LEGAL EFFECT OF SIGNING PETITIONS FOR NEW POLITICAL PARTY; AUTHORITY OF STATE AND COUNTY BOARDS OF ELECTION TO
CHANGE PARTY DESIGNATION OF PERSONS SIGNING PETITION TO
FORM NEW POLITICAL PARTY

The fact that an elector or voter signs a petition to create a new political party in no wise affects his previous party affiliation or present party affiliation and this cannot be changed except under the provisions of G. S. 163-50. Neither the State Board of Elections nor the county boards of election have the legal right to change the party affiliation of electors or voters who sign such petitions of their own motion; participation by electors who sign such petitions in the party convention of the new political party or as officials in the general election authorizes the State Board of Elections or the county boards of election to change, on their own motion, the party affiliation of such electors as shown on the registration records.

3 August 1964

ELECTIONS; ORGANIZATION OF NEW POLITICAL PARTY TO NOMINATE CANDIDATES; ABANDONMENT OF NOMINATION OF CANDIDATES BY
CONVENTION; ATTEMPTS TO NOMINATE FURTHER CANDIDATES
AFTER ADJOURNMENT OF ORIGINAL CONVENTION

Under G. S. 163-1 a new political party has a right to nominate or refrain from nominating candidates for State office in one convention held after a new party achieves its status; if the new party does not nominate candidates in its first convention it cannot hold further conventions for the purpose of nominating candidates.

9 March 1965

ELECTIONS; REGISTRATION; ADMINISTERING LITERACY TEST

A registrar does not have to administer the literacy test if he in good faith knows that the applicant has the requisite ability. Where uncertainty as to the applicant's ability exists, the test should be administered to all persons alike.

8 February 1965

ELECTIONS; REGISTRATION; TIME FOR REGISTRATION OF VOTERS FOR
PRIMARY AND GENERAL ELECTIONS

County registration books may be kept open only during the periods provided for registration in GS 163-123 and GS 163-31 for primary and general elections.

24 January 1966

ELECTIONS; VOTING FOR GROUP CANDIDATES IN COUNTY AND
MUNICIPAL PRIMARY ELECTIONS

GS 163-175(6), pertaining to voting for group candidates, applies only to county and municipal primaries and is not applicable to primaries for district court judges, State senators and members of the House of Representatives.

26 October 1964

ELECTIONS; WATCHERS; COUNTIES HAVING LOOSE-LEAF AND
VISIBLE REGISTRATION SYSTEM

A county that has a modern loose-leaf registration system is not allowed to have watchers appointed for each political party and if an elector wishes to challenge another elector, the elector making the challenge must be an elector of the precinct.

EMINENT DOMAIN

9 June 1966

EMINENT DOMAIN; CONDEMNATION FOR AIRPORTS

Under Chapter 927 of the 1963 Session Laws creating the Goldsboro-Wayne County Airport and authorizing the County of Wayne and the City of Goldsboro to acquire by eminent domain property for airports, condemnation is "in the manner provided by law under which the city, town and/or county is or are authorized to acquire real property for public purposes, other than street purposes, . . ."

Various procedures may be available and the time and vesting of title in such a condemnation action would depend upon the procedure used.

12 October 1964

EMINENT DOMAIN; MUNICIPALITIES; NONSUIT; PARTIES

A municipality may take a voluntary nonsuit after commissioners' award or jury verdict, but prior to final judgment, where they have not entered upon the property or exercised authority or control over the property.

The interest of a mortgagee who is a party to a condemnation action is eliminated as between the condemnor and condemnee, but the debt between the mortgagor and the mortgagee is not eliminated where the award is insufficient to satisfy the unpaid balance of the mortgage.

14 September 1964

EMINENT DOMAIN; MUNICIPALITIES, RECREATION

By virtue of G. S. 160-205, and the Recreation Enabling Law set forth in G. S. 160-155 through G. S. 160-164, a municipal corporation has authority to condemn land for the purpose of a recreation park.

31 January 1966

EMINENT DOMAIN; PUBLIC PURPOSE; NORTH CAROLINA STATE PORTS
AUTHORITY

The North Carolina State Ports Authority does not have the power under Article 22 of Chapter 143 of the General Statutes of North Carolina to acquire private property by condemnation for future sale to private industry.

The pertinent authorities do not indicate that such a taking by condemnation would be for a "public purpose".

EMPLOYMENT SECURITY ACT

21 June 1965

EMPLOYMENT SECURITY ACT; ADDRESS OF EMPLOYER; EMPLOYER
OPERATING TRAWLERS UP AND DOWN EASTERN COAST; SENDING
FORMS TO EMPLOYER IN CARE OF HIS ATTORNEYS

Under the Employment Security Act where an employer is engaged in a transitory business going from place to place operating trawlers up and down the eastern coast, the employer has a right to designate his address by his name and in care of a firm of attorneys located in a coastal town.

ESTATES

21 January 1965

ESTATES; ADMINISTRATION OF ESTATES; BANK ACCOUNT; SURVIVORSHIP

The mere establishment of an account in a savings and loan association in the name of the depositor payable on death to a third party is not sufficient to establish an enforceable right in the third party to the funds remaining in the account at the death of the depositor.

29 September 1965

ESTATES; PAYMENT TO CLERK OF MONEY OWED INTESTATE;
APPOINTMENT OF ADMINISTRATOR

Where the sole asset of an estate is \$600.00, the amount received from an automobile insurance policy, the proceeds may be paid into the Clerk of Superior Court and properly received by him, thereby releasing the claim of the intestate without the necessity of appointing an administrator.

EXECUTION

30 September 1964

EXECUTION; ATTACHMENT; PERSONAL PROPERTY IN HOME; FORCEFUL
ENTRY BY SHERIFF TO EFFECT LEVY

In the absence of specific statutory authority, a sheriff or other officer cannot forcefully break into a dwelling for the purpose of making a levy on the goods of the owner. *STATE v WHITAKER*, 107 NC 803.

EXECUTORS AND ADMINISTRATORS

9 July 1965

EXECUTORS AND ADMINISTRATORS; INCOME TAX REFUND; DISTRIBUTION

Federal and State income tax refunds attributable to a decedent which exceed the amounts for which specific disposition is made by G. S. 28-56.1, G. S. 28-56.2 and G. S. 28-56.3 should be distributed by the executor or administrator in the same manner as other assets of the decedent coming into the hands of such fiduciary.

FEDERAL LANDS JURISDICTION

24 May 1966

FEDERAL LANDS JURISDICTION; SHERIFF'S AUTHORITY TO EXECUTE CIVIL AND CRIMINAL PROCESS

The Sheriff and his deputies have authority to enforce State law upon a federally owned and operated recreational area.

FIREMEN

16 July 1965

FIREMEN; FIREMEN'S RELIEF FUND; PURCHASE OF INSURANCE

In the absence of authorizing legislation, trustees of local firemen's relief funds do not have authority to purchase insurance for the general benefit of firemen within their locality.

HEALTH

4 November 1964

HEALTH; AIR POLLUTION; SMOKE ABATEMENT; LOCAL BOARD OF HEALTH; POWER TO MAKE RULES AND REGULATIONS

Local boards of health, both city and county, have authority in the interest of promoting public health to adopt reasonable rules and regulations respecting air pollution and smoke abatement.

3 December 1965

HEALTH; BURIALS; CREMATION; DEPTH OF GRAVE; DISPOSAL OF ASHES AFTER CREMATION

There are no statutes regulating the disposal or treatment of ashes resulting from the cremation of a human body.

21 September 1964

HEALTH; DISTRICT HEALTH DEPARTMENT; REGULATIONS AFFECTING ONLY ONE COUNTY IN DISTRICT

A district board of health may make different regulations for the different counties comprising the district and the regulations are not required to be uniform throughout the district.

21 April 1965

HEALTH; FLUORIDATION; COMPELLING FLUORIDATION

Neither the State Board of Health nor a local board of health has legal authority to compel a city or town to fluoridate its municipal water supply.

28 May 1965

**HEALTH; LOCAL BOARDS OF HEALTH; COUNTIES; REGULATION OF
GARBAGE COLLECTION**

Boards of county commissioners and county boards of health have statutory authority to prescribe regulations in connection with garbage collection.

HOSPITALS

2 July 1964

**HOSPITALS; CITY HOSPITALS; ACCEPTING NOTES FROM PATIENTS;
ENDORSEMENT OF NOTES TO BANK**

There is nothing in the statutes which would prohibit city or county hospital officials from discounting patients' notes for their hospital bills with banks even though such hospitals would be liable for unpaid bills upon default in payments by such patients.

INSURANCE

15 July 1965

**INSURANCE; GROUP LIFE INSURANCE; ELIGIBILITY OF
TRUSTEE TO PARTICIPATE**

The trustee of a group life insurance program established by an employer pursuant to G. S. 58-210(4) would be eligible to participate in such program even though he was not an actual employee of the employer establishing the program if his duties as trustee of the program constituted his principal employment.

29 July 1964

INSURANCE; INSURANCE STOCKS; REGULATION OF SALE

The Securities Law (Chapter 78 of the General Statutes) applies to sales of insurance securities by unlicensed insurance corporations and insurance holding corporations where the securities sold are already owned by members of the public. New issues of such securities, however, come within the provisions of Article 12 of Chapter 58 and are regulated by the Commissioner of Insurance.

LABOR

6 April 1965

LABOR; MAXIMUM HOURS LAW FOR WOMEN; CIVIL RIGHTS ACT OF 1964

The Civil Rights Act of 1964 does not repeal the Maximum Hours Law (G. S. 95-17) as to the number of hours a female employee should work in any one work week.

23 May 1966

LABOR; DEPARTMENT OF LABOR; REGULATION OF EMPLOYMENT AGENCIES;
INVESTIGATION BY COMMISSIONER OF LABOR; WHEN LICENSE FOR
EMPLOYMENT AGENCY WILL NOT BE ISSUED

An applicant for a license to operate an employment agency must satisfy the Commissioner of Labor that the applicant is of such character and moral standing as to warrant the issuance of a license to operate such agency.

2 February 1965

LABOR; MINIMUM WAGE LAW; AGRICULTURAL LABOR; FARM DEALING IN
GRAIN AND PEANUTS AND ALSO GINNING COTTON

Employees performing services in cotton ginning for a farm which also buys peanuts and grain are not engaged in farm labor but are engaged in a commercial enterprise and such employees are covered by the Minimum Wage Act.

22 February 1965

LABOR; MINIMUM WAGE LAW; EXEMPT EMPLOYEES; COUNTING NUMBER OF
EMPLOYEES FOR COVERAGE PURPOSES

While a person employed by a firm who has reached his 65th year is exempt from the Minimum Wage Law as to the minimum amount of wages paid, nevertheless, such person is counted as an employee in determining whether the firm has a sufficient number of employees for coverage under the Act.

LANDOWNERS

12 August 1964

LANDOWNERS; LIABILITY OF LANDOWNERS TO AUTHORIZED USERS

The act entitled "Liability of Landowners to Authorized Users" was written in contemplation of including ponds, said Act being codified as

Article 10B of Chapter 113 of the North Carolina General Statutes. G. S. 113-120.5, .6, and .7.

LOTTERY LAWS

25 August 1964

LOTTERY LAWS; BINGO

The game of Bingo is considered a lottery, and the same may not be legally operated in this State even though the proceeds from such operation may be devoted to a charitable, educational or religious purpose.

MARRIAGE

12 April 1965

MARRIAGE; COMMON LAW MARRIAGE; VALIDITY IN N. C.

Common law marriages may not be contracted in North Carolina but North Carolina will recognize common law marriages validly contracted in other states.

2 December 1964

MARRIAGE; LICENSE; FOREIGN MARRIAGES; RECORDATION OF LICENSE

There is no provision in North Carolina law for a register of deeds to record a marriage license issued in another state or country.

19 August 1965

MARRIAGE; LICENSE SECURED IN ONE COUNTY; AND MARRIAGE PERFORMED IN ANOTHER COUNTY; VALIDITY OF MARRIAGE

Failure to comply with the requirements of GS 51-6, as to marrying in the county where the license is issued by the register of deeds, does not invalidate the marriage which is otherwise good to every intent and purpose.

6 November 1964

MARRIAGE; LICENSE; PARENT'S CONSENT; CHILDREN OVER SIXTEEN AND UNDER EIGHTEEN

There is no provision in the North Carolina law for issuing a marriage license to a boy or girl over 16 but under 18 without the parent's consent even though the girl may be pregnant or the boy and girl may already be parents of a child.

16 May 1966

MARRIAGE; PERFORMANCE OF MARRIAGE CEREMONY; CLERK OF SUPERIOR COURT NOT AUTHORIZED

A clerk of the superior court is not authorized to perform marriage ceremonies in this State.

MENTAL HEALTH COUNCIL

14 December 1965

MENTAL HEALTH COUNCIL; LEGAL AUTHORITY OF THE NORTH CAROLINA MENTAL HEALTH COUNCIL TO ELECT A CHAIRMAN, VICE-CHAIRMAN, AND SECRETARY TO THE COUNCIL

The North Carolina Mental Health Council provided for by G. S. 122-105 has legal authority to elect a chairman, vice-chairman, and secretary for the Council.

MORTGAGES

5 April 1965

MORTGAGES; DEEDS OF TRUST; SALE UNDER POWER OF SALE; DEFAULTING BIDDER

When a bidder at a foreclosure sale defaults with respect to his bid, the property may be readvertised and resold and the defaulting bidder will be liable for the deficiency between his bid and the bid at the resale.

MOTOR VEHICLES

7 August 1964

MOTOR VEHICLES; ARREST WITHOUT A WARRANT OF MOTOR VEHICLE VIOLATOR PURSUED ONTO PRIVATE PROPERTY

A motor vehicle violator, being pursued onto private property, can be arrested without a warrant even though the owner of the private property has not consented to entrance thereon.

11 September 1964

MOTOR VEHICLES; CERTIFYING SCHOOL BUS DRIVERS OF PAROCHIAL AND PRIVATE SCHOOL BUSES

Operators of school buses loaded with children are required to be certified under the provisions of G. S. 20-218 and school buses loaded with children are restricted to a speed of 35 miles per hour.

11 August 1965

MOTOR VEHICLES; CRIMINAL LAW; LARCENY; TEMPORARY LARCENY OF A
MOTOR VEHICLE; PUNISHMENT

On April 7, 1965, the General Assembly increased the maximum punishment for temporary larceny of a motor vehicle from imprisonment for not more than sixty days to imprisonment not exceeding two years.

16 September 1965

MOTOR VEHICLES; DRIVERS' LICENSES; COMMITMENT TO HOSPITAL FOR
MENTALLY DISORDERED

Where an alleged mentally ill person is committed to a hospital for observation and treatment under a G. S. 122-63 proceeding, the clerk of court of the committing county is *not* required to file Form DL-40 with the Department of Motor Vehicles under G. S. 20-17.1, which provides that the Commissioner of Motor Vehicles shall be notified when a person has been legally adjudged insane. Where an alleged inebriate is committed to a hospital for observation and treatment under a G. S. 122-63 proceeding, the clerk of court of the committing county is required to file Form DL-40 with the Department of Motor Vehicles under G. S. 20-17.1, which provides that the Commissioner of Motor Vehicles shall be notified when an inebriate has been committed to an institution.

13 December 1964

MOTOR VEHICLES; DRIVING UNDER INFLUENCE OF DRUGS; STATUTE
COVERS ONLY NARCOTIC DRUGS

The statute making it a criminal offense to operate a motor vehicle on the highway while under the influence of a narcotic drug does not cover the situation of operating a motor vehicle while under the influence of a non-narcotic drug.

9 July 1964

MOTOR VEHICLES; PASSING; YELLOW LINES; MUNICIPAL STREETS

Subsection (e) of G. S. 20-150 prohibiting passing where signs or markers are placed by the State Highway Commission stating or clearly indicating that passing should not be attempted, does not apply to municipal non-system streets, and center line markings on a municipal street should be covered by a municipal ordinance.

14 April 1965

MOTOR VEHICLES; PEDESTRIAN WALKING ON RIGHT-HAND SHOULDER
OF A HIGHWAY

G. S. 20-174(d) makes it unlawful for a pedestrian to walk on the right-hand shoulder of a paved highway.

6 January 1966

MOTOR VEHICLES; RULES OF THE ROAD; APPLICABILITY TO PUBLIC
HOSPITAL PARKING AREA; APPLICABILITY TO CITY PARKING LOTS;
ACCIDENT REPORTS

While rules of the road (Chapter 20 of the General Statutes) are not generally applicable to public hospital parking areas and city-owned parking lots, the offenses of driving under the influence and reckless driving apply equally to such areas as they do to the public streets and highways. G. S. 20-166, the hit and run statute, would also be applicable to hospital parking lots and municipally-owned parking facilities. By virtue of G. S. 131-21 all city ordinances apply to parking lots around public hospitals; however, in the absence of a specific ordinance so stating, city traffic ordinances are not applicable to municipally-owned parking lots.

23 November 1964

MOTOR VEHICLES; SPEED RESTRICTIONS; JURISDICTION OF MAYOR'S COURT
OVER VIOLATIONS ON SYSTEM STREETS

Where the speed upon a State Highway System street is established by concurring ordinances of the municipality and the Highway Commission, a violation of the speed limit is punishable as set forth in G. S. 20-176(b) as made applicable by G. S. 20-180, and since the punishment prescribed is in excess of \$50.00 or imprisonment for thirty days, a Mayor's court, which has the same jurisdiction as that of a Justice of the Peace, would not have jurisdiction of such violations.

MUNICIPAL CORPORATIONS

14 April 1966

MUNICIPALITIES; AIRPORTS; ACQUISITION; LEASE

A municipality is authorized to expend nontax funds to acquire an airport and a municipality may lease its airport to a private party for operation.

11 July 1964

MUNICIPAL CORPORATIONS; ANNEXATION OF TERRITORY OF AREAS WITHIN
INCORPORATED LIMITS OF A CITY BUT LYING OUTSIDE OF THE
BOUNDARIES OF THE CITY ADMINISTRATIVE UNIT

Elections can be held in areas outside the boundaries of a city administrative unit to determine whether or not such areas shall be annexed to the city unit; the fact that these areas are located inside a county school district which still owes a balance on its bonded indebtedness would not legally prevent such annexation.

15 September 1964

MUNICIPAL CORPORATIONS; APPROPRIATIONS; BUDGET ORDINANCE;
AMENDMENT

A municipality may amend its budget ordinance after it has been adopted only in the manner set out in G. S. 160-410.8 unless it has special charter provisions providing otherwise.

30 December 1964

MUNICIPAL CORPORATIONS; AUTHORITY TO ESTABLISH TRUCK ROUTES

A municipality has the authority to establish truck routes by ordinance over streets located within its corporate limits.

20 April 1965

MUNICIPAL CORPORATION; BUILDING CODE; ADOPTION; LICENSE FEE
IMPOSED ON FEDERAL PROJECT

A municipality may subject an out-of-state contractor, working on a federal building, to a license fee under certain conditions. The municipality may not subject the project to a building inspection fee.

A municipality may legally adopt building codes and related general legislation by the system of incorporation by reference.

14 January 1966

MUNICIPAL CORPORATIONS; CHANGE IN WARD BOUNDARIES BY CITY COUNCIL

The General Assembly may provide for the City Council of a municipality to have from time to time the power to alter the boundaries of the wards from which members of the council are elected. Such an act appears at 1965 Session Laws, Chapter 79, Section 4.6.

10 May 1966

MUNICIPAL CORPORATIONS; COMMISSIONER FOR A PUBLIC TRUST; MAYOR OF
MUNICIPAL CORPORATION SELLING INSURANCE TO THE MUNICIPAL
CORPORATION AND COLLECTING PREMIUMS

Where the mayor of a town without authorization purchases insurance for the town in a company with which the mayor is doing business as an agent, such action is a strong indication of a violation of G. S. 14-234.

8 June 1965

MUNICIPAL CORPORATIONS; CONTRACTS; PUBLIC BIDDING; DEPOSIT OF
CERTIFIED CHECK; USE OF CASHIER'S CHECK IN LIEU THEREOF

In making a deposit on a public bidding contract under G. S. 143-129, a cashier's check is just as acceptable as a certified check.

2 March 1965

MUNICIPAL CORPORATIONS; COUNTIES; AIRPORT FACILITIES; NOT A
NECESSARY EXPENSE

Whereas expenditure of funds by a city or county for an airport facility would be considered for a public purpose, the same would not be considered for a necessary expense within the meaning of the State Constitution and, therefore, neither a city nor a county could borrow money or could use tax funds for airport purposes without a vote of the people. Non-tax funds could be used.

2 June 1965

MUNICIPAL CORPORATIONS; DRAINAGE DISTRICTS; DISSOLUTION

There is no statutory provision for the dissolution of a drainage district created under the general law of the State.

20 December 1965

MUNICIPAL CORPORATIONS; EXPENDITURE OF CITY FUNDS FOR CURB AND
GUTTER BEYOND THE CITY LIMITS

Cities and Towns may not legally spend City funds for the construction of curb and gutters beyond the City Limits.

4 August 1965

MUNICIPAL CORPORATIONS; INSURANCE; HOSPITAL INSURANCE;
GROUP LIFE INSURANCE

A municipality has authority to provide for its employees both group life insurance coverage and hospitalization insurance coverage, respectively.

6 August 1964

MUNICIPAL CORPORATIONS; OFFICERS; CONTRACTS; EMPLOYMENT CONTRACT
BETWEEN MUNICIPAL OFFICER AND MUNICIPALITY

A member of the governing body of a municipality may not enter into a contract of employment with the municipality except in probable violation of the prohibition of G. S. 14-234 which makes it a misdemeanor for a director of any public trust to contract for his own benefit.

6 October 1965

MUNICIPAL CORPORATIONS; ORDINANCES; PARKING METERS

A motorist, parking in a two-hour zone, is not guilty of overtime parking when the meter expires at any time less than two hours. The proper use of multi-coin meters was not forbidden by *State vs. Scoggin*, 236 N. C. 1.

3 August 1964

MUNICIPAL CORPORATIONS; ORDINANCES; RAILROADS; GRADE CROSSINGS;
POWER OF MUNICIPALITY TO REGULATE SPEED OF TRAINS

Municipalities may by ordinance regulate the speed of trains within the city and set the time period that a railroad would be permitted to block a city street. Such ordinances must not be unreasonable, arbitrary or oppressive. The railroad can appeal such ordinances to the Utilities Commission which will determine if the ordinances are, in fact, unreasonable, arbitrary, or oppressive. The fact that the particular street involved is a street on the State Highway System would cause no difference in result.

9 July 1964

MUNICIPAL CORPORATIONS; STREETS; MOTOR VEHICLES; PASSING

Subsection (e) of G. S. 20-150 prohibiting passing where signs or markers are placed by the State Highway Commission stating or clearly indicating that passing should not be attempted, does not apply to municipal nonsystem streets, and center line markings on a municipal street should be covered by a municipal ordinance.

27 May 1966

MUNICIPAL CORPORATIONS; PROPERTY—PURCHASE & SALE, ETC.; EMINENT
DOMAIN PROCEEDINGS TO ACQUIRE LAND FOR A CITY DUMP

Municipal corporations are not authorized to condemn private property for use as city dumps since city dumps are not mentioned as a purpose for which condemnation is authorized under G. S. 160-204, 160-205.

10 December 1964

MUNICIPAL CORPORATIONS; PUBLIC HOSPITALS;
SUPPORT; DEFRAYING OPERATING DEFICIT

A municipality is authorized to spend certain funds to guarantee the operating deficit of a publicly owned or nonprofit hospital.

2 December 1965

MUNICIPAL CORPORATIONS; PUBLIC UTILITIES; AUTHORITY TO OPERATE
PUBLIC TRANSPORTATION SYSTEM; APPROPRIATIONS THEREFOR

A municipality has the authority to purchase and operate a public bus transportation system. Such transportation system is a public purpose, but not a necessary purpose, and therefore, may not be financed from tax funds except upon a vote of the people, but may be financed from non-tax revenue if such can be done without pledging future receipts so as to constitute a pledge of the city's faith and credit.

2 September 1964

MUNICIPAL CORPORATIONS; PUBLIC WORKS ACT, PROPERTY-PURCHASE OF
REALTY, EMINENT DOMAIN

A municipality has authority under G. S. 160-2, Subsection 2, to purchase land outside its corporate limits for the purpose of removing sand therefrom to be placed on the municipally owned beach front in order to carry out a Public Works Project to provide protection from hurricanes, to protect life and property from high water and wave action, and to prevent further erosion of the beach front. For the purposes described, the town has authority, under the Public Works Eminent Domain Law as set forth in G. S. 40-30 through G. S. 40-53, to acquire by condemnation lands outside its corporate limits.

9 September 1964

MUNICIPAL CORPORATIONS; REAL PROPERTY; SALES; LEASES;
PUBLIC OR PRIVATE SALE

A county may sell surplus real estate at public or private sale but a city may sell surplus real estate only at public auction, except under very unusual circumstances.

14 September 1964

MUNICIPAL CORPORATIONS; RECREATION; EMINENT DOMAIN; LAND FOR
RECREATION PARK

By virtue of G. S. 160-205, and the Recreation Enabling Law set forth

in G. S. 160-155 through G. S. 160-164, the Town of Farmville has authority to condemn land for the purpose of a recreation park.

26 August 1965

MUNICIPAL CORPORATIONS; RECREATION; ESTABLISHMENT OF RECREATION
SYSTEM; ACQUISITION OF RECREATION FACILITIES

G. S. 160-159 authorizes the governing body of a municipality, upon its own motion, and G. S. 160-163 directs the governing body of a municipality, upon a petition of the qualified voters of the municipality, to submit to a vote of the people the question of levying an ad valorem tax of not less than 3¢ or more than 10¢ on the \$100 valuation to be used for the establishment, maintenance and operation of a supervised system of recreation and also the question of issuing bonds and levying a tax for the acquisition of recreation facilities, and upon the question of the acquisition of recreation facilities there is no limitation specified in the statute as to the amount of the bonds or the rate of tax which may be levied to retire such bonds.

5 May 1965

MUNICIPAL CORPORATIONS; RESCUE SQUAD; PRIVATE ORGANIZATIONS;
WORKMEN'S COMPENSATION

A municipality or county is authorized to expend funds to purchase and maintain rescue equipment to finance the operation of a rescue squad and may contribute to a privately incorporated rescue organization provided the use of the funds contributed shall be for the exclusive purpose of rescue operations and expenses connected therewith.

Unless otherwise specifically provided, an employer-employee relationship would not exist between a municipality and a member of a rescue squad, unless the member is in fact an employee of the municipality for another purpose.

4 May 1965

MUNICIPAL CORPORATIONS; RETIREMENT SYSTEMS; NECESSITY FOR
ENABLING LEGISLATION

Enabling legislation is essential for a municipality to establish a retirement system for its employees. The only general enabling legislation in this field at present is that relating to the Local Governmental Employees' Retirement System.

5 August 1965

MUNICIPAL CORPORATIONS; SEWER AND WATER SYSTEMS; CHARGES;
UNIFORMITY OF CHARGES

There is absolutely no authority for a town to discriminate in its charges for water and sewer service on the basis of "religious, civic, recreational

and other worthy purposes." The whole theory of payment of water and sewer service is that of paying the actual cost for services received and there is no basis to justify favored treatment of special groups, however worthy their causes or projects.

9 May 1966

MUNICIPAL CORPORATIONS; SPECIAL ASSESSMENTS; SUFFICIENCY OF
PETITION WHERE TWO OR MORE STREETS ARE INCLUDED IN SAME
PROJECT

Where two or more connecting streets are included in the same street improvement project and a majority of the owners of front footage on all of the streets and a majority of the property owners of all of the property abutting the project have signed a petition, the petition is sufficient even though less than a majority of the property owners or owners of front footage have signed with respect to a particular street.

24 May 1966

MUNICIPAL CORPORATIONS; STREETS; BUILDING ENCROACHMENT;
VACATING PORTIONS OF CITY STREETS FOR PRIVATE PURPOSES

Municipal Corporations have no authority to permit a building to encroach upon a city street, nor can the municipality vacate a portion of the street for the purpose of devoting it to private and inconsistent uses.

3 June 1965

MUNICIPAL CORPORATIONS; STREETS; CLOSING

A municipality has the power under G. S. 153-9(17) by using the procedure set out therein to close a street or alley which has been dedicated to public use by recorded plat but which has never been opened and used by the public.

16 February 1966

MUNICIPAL CORPORATIONS; STREETS CLOSING OF PUBLIC STREETS TEMPORARILY; USE OF CITY STREETS FOR RECREATIONAL PURPOSES

A municipality has authority to close public streets temporarily to be used for recreational purposes.

17 March 1965

MUNICIPAL CORPORATIONS; STREETS LEASING PART OF ITS PUBLIC STREETS TO
PRIVATE INDIVIDUALS

Town authorities cannot grant any use of a dedicated street for private purposes without specific legislative authority. North Carolina General Statute 160-1.

4 August 1965

MUNICIPAL CORPORATIONS; STREETS; POWER OF MUNICIPALITIES TO
ABANDON STREETS; LIABILITY OF MUNICIPALITIES TO ADJOINING
PROPERTY OWNERS

Where a dedicated street has never been accepted by a city and never opened or used by the public and a successor of the dedicator has filed a declaration of withdrawal pursuant to G. S. 136-96, the city may extend a curb and gutter section across the entrance of said street without incurring liability to the owner of a lot adjoining the street where the street is not necessary for convenient ingress, egress and regress to the lot.

31 July 1964

MUNICIPAL CORPORATIONS; STREETS AND HIGHWAYS; UTILITY INSTALLATION

If the agreement or judgment under which the right of way was obtained subjects the right of way to use "for all purposes for which the State Highway Commission is authorized to subject the same", utilities may be installed within the right of way without the payment of additional compensation to the landowner.

The general rule is that installation of city utilities within city streets as a public service to the citizens does not give abutting land-owners the right to additional compensation. In view of the permanent nature and exclusive control of streets and highways, such installation, if compensable, should result in nominal damages.

8 December 1965

MUNICIPAL CORPORATIONS; TAXATION PRIVILEGE LICENSE TAXES; PEDDLERS;
EXEMPTION OF CERTAIN DISABLED VETERANS

Boards of County Commissioners have the authority to exempt from the peddlers' tax disabled veterans of the Spanish-American War and of the first and second World Wars.

8 April 1965

MUNICIPAL CORPORATIONS; URBAN REDEVELOPMENT; AUTHORITY OF
REDEVELOPMENT COMMISSION TO EXCHANGE PROPERTY
LIMITED TO A REDEVELOPER

A Redevelopment Commission may not exchange property it has acquired unless the exchange is with a redeveloper, as defined in GS 160-456(14).

16 September 1964

MUNICIPAL CORPORATIONS; ZONING ORDINANCE; ISSUANCE OF BUILDING
PERMIT; EFFECT OF CHANGE OF ORDINANCE THEREON

When a building permit has been issued and acted upon in good faith and substantial improvements and substantial expenses have been made and incurred, the owner of the permit acquires a vested right to proceed

with construction even though a subsequent change in the zoning ordinance makes such use a non-conforming use. See: *STOWE v BURKE*, 255 NC 527.

18 January 1965

MUNICIPAL CORPORATIONS; ZONING; PUBLIC UTILITY ERECTING
SUBSTATION IN AREA ZONED RESIDENTIAL

A public utility is subject to the zoning ordinances of a municipality and cannot erect a non-conforming use in a residential area unless granted the right by franchise, zoning ordinance or by the board of adjustment upon a showing of undue hardship.

POWELL BILL FUNDS

26 March 1965

POWELL BILL FUNDS; CLEANING CANAL

The expenditure of funds for cleaning and dragging an existing canal which was necessary for drainage to protect city street would be a purpose for which Powell Bill Fund might be spent.

27 July 1964

POWELL BILL FUNDS; ELIGIBILITY OF A TOWN TO RECEIVE POWELL
BILL FUNDS

A town not having levied an ad valorem tax in the current fiscal year (1963-64) would not be eligible to participate in the 1964 allocation of the Powell Bill Fund.

6 July 1965

POWELL BILL FUNDS; PAYMENT OF INTEREST ON BONDS FOR
STREET CONSTRUCTION

Powell Bill funds may be used to pay on principal and/or interest on bonds issued by a municipality for the purpose of constructing streets and necessary appurtenances within the corporate limits of the municipality.

13 August 1964

POWELL BILL FUNDS; STATE HIGHWAY COMMISSION ORDERS,
RETROACTIVE EFFECT

Although July 1 of each year is used as a convenient determination date for the allocation of funds based on street mileage under the Powell Bill, a municipality acquires no vested right to include in its claim for allocation of Powell Bill Funds all streets which were on the municipality system as of that date. Where the State Highway Commission by resolution adopted July 2nd annexes streets within a municipality to the State Highway System effective as of June 30 preceding, the streets so annexed should be deleted from the claim for Powell Bill Funds filed by the municipality.

PROBATE AND REGISTRATION

29 December 1965

PROBATE AND REGISTRATION; CONDITIONAL SALES CONTRACT; EXECUTION; ACKNOWLEDGEMENT; POWERS OF CLERK

The powers of the Clerk of Superior Court are statutory, and when an instrument is offered to him for probate, his function is to pass on the authenticity of the instrument.

G. S. 47-41 and G. S. 55-36(b) do not limit the execution of a chattel instrument, offered for probate and registration, to the officers named in these statutes.

An instrument signed by an authorized agent of a corporation can be properly probated and registered.

22 October 1965

PROBATE AND REGISTRATION, REQUIREMENT OF IDENTIFICATION OF DRAFTSMAN OF INSTRUMENT

G. S. 47-17.1, *Documents accepted for probate or recordation in certain counties to designate the draftsman, exceptions*, does not affect the law relating to who may prepare legal instruments. It only imposes an additional requirement for probate or registration in certain named counties.

PUBLIC OFFICERS

7 January 1966

PUBLIC OFFICERS; APPOINTMENT SUBJECT TO CONFIRMATION OF SENATE; RECESS OR AD INTERIM APPOINTMENTS; TENURE OF OFFICE OF RECESS APPOINTEE WHOSE NAME HAS NEVER BEEN PRESENTED TO THE SENATE FOR CONFIRMATION; AUTHORITY OF PRESENT GOVERNOR TO NOW MAKE APPOINTMENT TO OFFICE WHERE PRECEDING GOVERNOR MADE RECESS APPOINTMENT THAT WAS NEVER CONFIRMED

Where the appointment of an officer to a public office must be confirmed by the Senate, the Governor may make a recess appointment until opportunity for confirmation; where recess appointment has been made and opportunity for confirmation has been presented but not acted upon, the tenure of the recess appointee is conditional and at the pleasure of the Governor; a successor Governor, therefore, may give his own appointee a recess appointment to such office.

28 September 1964

PUBLIC OFFICERS; CLERKS SUPERIOR COURT; EXECUTION ON SUMS HELD

The clerk of Superior Court is under no obligation to stop payment upon

a check in payment of a consent judgment when execution is served on him after the check has been placed in the U. S. Mail properly addressed to the person entitled thereto.

8 September 1965

PUBLIC OFFICERS; CONFLICT OF INTEREST; MEMBER OF STATE
HIGHWAY COMMISSION

Highway commissioners are prohibited by law from selling materials and supplies to contractors which will be included in or used in the construction of a Highway project.

The sale by a Highway commissioner to a Highway Commission supplier, so long as the sale is an arms length aboveboard transaction in the usual course of business and does not involve the sale of items which are ultimately purchased by the Commission and the commissioner in no way has used his position to effect the sale or profit thereby, does not appear to be prohibited.

11 October 1965

PUBLIC OFFICERS; CONFLICT OF INTEREST; MEMBER OF STATE
HIGHWAY COMMISSION

A public officer who owns 14% of the outstanding stock of a corporation and is employed by said corporation which sells machinery to the governmental body with which the public officer is affiliated may constitute a violation of G. S. 14-234 and/or G. S. 136-14. Such possibility of violation should be resolved in favor of the public officer's fiduciary capacity.

10 November 1964

PUBLIC OFFICERS; CONSTABLES; ELIGIBILITY FOR OFFICE; REMOVAL OF CANDIDATE FROM TOWNSHIP IN WHICH HE STANDS FOR ELECTION; CONSTABLE RECEIVING MAJORITY OF THE VOTES CAST IN ONE TOWNSHIP AFTER REMOVAL FROM TOWNSHIP

A person who is candidate for constable and who moves out of the township in which he is a candidate before election day becomes ineligible for office and this is especially true where he could not possibly move back into the township and establish voting residence prior to or on the day fixed for induction into office.

16 February 1966

PUBLIC OFFICERS; CORONERS COUNTY MEDICAL EXAMINERS; BONDS

Chapter 152A of the General Statutes does not require a county medical examiner to make an official bond.

21 October 1964

PUBLIC OFFICERS; DEPUTY TAX COLLECTOR; APPOINTMENT

A Board of County Commissioners is authorized under G. S. 105-374.1 to appoint a deputy tax collector and to fix his salary either upon a fee basis or upon a straight salary basis.

24 January 1966

PUBLIC OFFICERS; DOUBLE OFFICE HOLDING; EDUCATION; STATE EDUCATION ASSISTANCE AUTHORITY

A member of the State Education Assistance Authority, appointed pursuant to GS 116-203, is considered a public officer within the meaning of Article XIV, Section 7, of the North Carolina Constitution.

16 July 1965

PUBLIC OFFICERS; FIREMEN; FIREMEN'S RELIEF FUND;
PURCHASE OF INSURANCE

In the absence of authorizing legislation, trustees of local firemen's relief funds do not have authority to purchase insurance for the general benefit of firemen within their locality.

26 April 1965

PUBLIC OFFICERS; HOUSING AUTHORITIES; PUBLIC SCHOOL BOARDS AS AGENCIES OF THE STATE; AUTHORITY TO CONVEY PROPERTY TO HOUSING AUTHORITY
AT PRIVATE SALE

Under the provisions of G. S. 157-42(7) a city board of education is a subdivision or agency of the State and can convey real property to a housing authority without selling same at public auction.

24 May 1966

PUBLIC OFFICERS; JURISDICTION FEDERAL LANDS; SHERIFF'S AUTHORITY TO
EXECUTE CIVIL AND CRIMINAL PROCESS

The Sheriff and his deputies have authority to enforce State law upon a federally owned and operated recreational area.

12 August 1964

PUBLIC OFFICERS; JUSTICES OF THE PEACE;
CLAIM AND DELIVERY; JURISDICTION

A justice of the peace has claim and delivery jurisdiction when the value of the property does not exceed \$200 provided the plaintiff and defendant occupy a vendor-vendee relationship with respect to the property in question.

25 August 1965

PUBLIC OFFICERS; JUSTICES OF THE PEACE; FILLING VACANCIES IN OFFICE;
AUTHORITY OF CLERK OF THE SUPERIOR COURT; ELECTION AND APPOINTMENT
OF JUSTICES OF THE PEACE

Justices of the peace are now elected in the townships or appointed by the resident judge of the superior court; the Governor no longer has the authority to appoint justices of the peace but he can fill a vacancy occurring before qualification; all other vacancies occurring during the term are filled by the clerk of the superior court.

17 November 1965

PUBLIC OFFICERS; JUSTICES OF THE PEACE; RETIREMENT SYSTEMS

Justices of the peace are not covered either by the Teacher's and State Employees' Retirement System Act or the Local Governmental Employees' Retirement Act.

14 December 1965

PUBLIC OFFICERS; MENTAL HEALTH COUNCIL; LEGAL AUTHORITY OF THE
NORTH CAROLINA MENTAL HEALTH COUNCIL TO ELECT A CHAIRMAN, VICE-
CHAIRMAN, AND SECRETARY TO THE COUNCIL

The North Carolina Mental Health Council provided for by G. S. 122-105 has legal authority to elect a chairman, vice-chairman, and secretary for the Council.

17 August 1964

PUBLIC OFFICERS; PROSECUTING ATTORNEYS; RESIDENCE

A prosecuting attorney should be a resident of the territory over which the recorder's court in which he serves exercises territorial jurisdiction.

7 June 1966

PUBLIC OFFICERS; REGISTER OF DEEDS; APPLICATION OF THE UNIFORM COM-
MERCIAL CODE TO THE OFFICES OF REGISTERS OF DEEDS

The option to become a "recording county" under the North Carolina version of the Uniform Commercial Code, G. S. 25-9-408(2), does not provide the register of deeds and the county commissioners with an option by which the county may be removed from the provisions of the Uniform Commercial Code. This subsection only permits the keeping of record books instead of the filing system provided for in the other sections of Article 9 of the Code. The remaining provisions of the Article are unaffected by the exercise of the option.

18 October 1965

PUBLIC OFFICERS; SCHOOL BOARDS; FILLING VACANCIES; ORGANIZATION OF COUNTY EXECUTIVE COMMITTEE; APPOINTMENT OF MEMBERS OF EXECUTIVE COMMITTEE OF PARTY AND SUBSEQUENT CONSOLIDATION OF PRECINCTS; PERSON HOLDING PARTY OFFICE UNTIL SUCCESSOR APPOINTED OR ELECTED

Where a county executive committee is properly organized at the proper time under the Democratic Party Plan of Organization this executive committee continues to hold its positions, although the number of election precincts is subsequently consolidated and reduced in number, until the next proper time of appointing such executive committee.

13 August 1964

PUBLIC OFFICERS; SHERIFFS; BONDS; CLAIM AND DELIVERY; LIABILITY OF SHERIFF TO DETERMINE SUFFICIENCY OF SURETIES

A sheriff has to certify and approve the sufficiency of the sureties in a plaintiff's undertaking, to the effect that the sureties are bound in double the value of the property as stated in the affidavit; however, if the sheriff does not acquire a sufficient undertaking, then he could be liable, but only to an amount not to exceed in double the value of the property as stated in the said affidavit. G. S. 1-475.

16 October 1964

PUBLIC OFFICERS; SHERIFFS; VACANCY FILLED BY COUNTY COMMISSIONERS

Under Article VII, Section 5 of the North Carolina Constitution, and applicable statutes, the board of county commissioners appoints to fill vacancies in the office of sheriff, and the appointment is for the unexpired term. G. S. 153-9(12) and G. S. 162-5.

15 September 1965

PUBLIC OFFICERS; STATE COMMISSIONER OF WELFARE; RIGHTS, DUTIES, RESPONSIBILITIES, AND AUTHORITY OF COMMISSIONER OF WELFARE

Except that the Commissioner of Welfare may not receive the per diem pay and travel expenses provided for other members of the Medical Care Commission, and except that he has no vote as a member of the Medical Care Commission or the Board of Juvenile Correction, the Commissioner of Welfare has the same rights, duties, responsibilities, and authority as all other members of the Commission for the Blind, the Board of Juvenile Correction, and the Medical Care Commission, including the right to make or second motions and otherwise participate in proceedings to the same extent as all other members. The right of the Welfare Commissioner to vote as a member of the Commission for the Blind is the same as that of all other members of that Commission.

5 March 1965

PUBLIC OFFICERS; STATE EMPLOYEES; AGE; NO LIMITATION ON EMPLOYMENT

There is no State law which would prohibit the initial employment of a person in State government merely because he was over sixty-five years of age.

16 April 1965

PUBLIC OFFICERS; STATE TREASURER; NATIONAL FORESTS; ASSURANCE OF COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The State Treasurer should execute an assurance of compliance under Title VI of the Civil Rights Act of 1964 if national forest funds paid to the State Treasurer under 16 USCA 500 are received; the State Treasurer would also require boards of county commissioners to execute assurances of compliance with Title VI and must supervise the program.

RETIREMENT

9 September 1964

RETIREMENT; TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM; NORTH CAROLINA LICENSING BOARD FOR CONTRACTORS; RETIREMENT SYSTEM COVERAGE

Employees of the North Carolina Licensing Board for Contractors are eligible for coverage in the Teachers' and State Employees' Retirement System.

29 October 1965

RETIREMENT; TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM; NORTH CAROLINA PUBLIC EMPLOYEES' SOCIAL SECURITY AGENCY; EMPLOYEE; INDEPENDENT CONTRACTOR

Tutors employed by the State Vocational Rehabilitation Division of the Department of Public Instruction on an hourly basis and who have complete control over their own methods of instruction to trainees are not employees but should be considered as independent contractors.

SANITARY DISTRICTS

3 September 1964

SANITARY DISTRICTS; FILLING VACANCY; HOLDING OFFICE UNTIL SUCCESSOR IS ELECTED AND QUALIFIED

Incumbent members of the Board of a Sanitary District would continue to serve until their successors have been elected or appointed and duly qualified. G. S. 130-126; 130-127; 128-7.

8 June 1965

SANITARY DISTRICTS; IMMUNITY FROM TORT LIABILITY

A sanitary district enjoys the same immunity from tort liability as a municipality in furnishing fire protection services.

29 September 1964

**SANITARY DISTRICTS; POWER TO CONTRACT WITH WATER SUPPLIER TO
DISCONNECT CONSUMER UPON NON-PAYMENT OF SERVICES**

A sanitary district has the power to contract or enter into an agreement with the owner of water supplies whereby the owner of the water supplies, when appropriately requested by the sanitary district, may disconnect a consumer when there is a non-payment of services rendered. G. S. 130-128.

SOCIAL SECURITY

22 September 1964

**SOCIAL SECURITY; N. C. STATE BOARD OF DENTAL EXAMINERS; STATUS AS
STATE AGENCY**

The North Carolina State Board of Dental Examiners is a separate governmental, juristic agency or instrumentality of the State.

29 June 1966

**SOCIAL SECURITY; OFFICIAL ON COMMISSION BASIS; EMPLOYEES OF SUCH
OFFICIAL; RESPONSIBILITY FOR PAYMENTS**

The "employer" social security contributions with respect to a county official who is on a fee basis must be paid by the county both with respect to such fee-basis official and to his official employees.

SAVINGS AND LOAN ASSOCIATIONS

5 March 1965

**SAVINGS AND LOAN ASSOCIATIONS; CERTIFICATE OF INCORPORATION; LIST OF
STOCKHOLDERS; STATEMENT SHOWING SHARES SUBSCRIBED BY EACH**

A new certificate of incorporation for a savings and loan association must show the names of each incorporator and the number of shares of stock which each such incorporator has subscribed for.

SPEAKER BAN LAW

5 June 1965

SPEAKER BAN LAW; COLLEGES AND INSTITUTIONS OF HIGHER LEARNING; PROHIBITING COMMUNIST AND THOSE CLAIMING THE PROVISIONS OF THE FIFTH AMENDMENT FROM SPEAKING ON COLLEGE CAMPUSES

The Speaker Ban Law (Chapter 1207 of the Session Laws of 1963) requires the administrators of a State-supported college to prevent or prohibit a speaker from speaking or lecturing on the college campus if these administrators have reasonable grounds to believe that such a person is a Communist; in the absence of definite information from other sources an inquiry as to Communist affiliations made of the person involved would in most cases be sufficient.

STATE AGENCIES

23 May 1966

STATE AGENCIES; DEPARTMENT OF LABOR; REGULATION OF EMPLOYMENT AGENCIES; INVESTIGATION BY COMMISSIONER OF LABOR; WHEN LICENSE FOR EMPLOYMENT AGENCY WILL NOT BE ISSUED

An applicant for a license to operate an employment agency must satisfy the Commissioner of Labor that the applicant is of such character and moral standing as to warrant the issuance of a license to operate such agency.

8 July 1965

STATE AGENCIES; DEPARTMENT OF MENTAL HEALTH; AID TO THE MENTALLY RETARDED

Under H. B. 874 the Department of Mental Health of this State may utilize the services of the Division of Vocational Rehabilitation of the Department of Public Instruction for the purpose of properly expending the funds appropriated by the Act for nonprofit sheltered workshop purposes for mentally retarded persons.

28 December 1964

DEPARTMENT OF MENTAL HEALTH; SALARIES OF EMPLOYEES ENTITLED TO PROVISIONS OF WORKMEN'S COMPENSATION ACT

Employees of the Department of Mental Health, whose salaries are paid by provisions of a Federal grant, are subject to and entitled to the provisions of the Workmen's Compensation Act. The fact that the source of their salaries is the Federal grant, is immaterial.

STATE BOARDS AND COMMISSIONS

13 May 1965

STATE BOARDS AND COMMISSIONS; CONTRACTORS; STATE BOARD OF EXAMINERS OF PLUMBING AND HEATING CONTRACTORS; SUSPENSION OR REVOCATION OF LICENSE

If a person has been licensed to engage in the business of being both a plumbing contractor and a heating contractor, and is guilty of professional misconduct constituting grounds for suspension or revocation of his license, such suspension or revocation may be limited merely to the field, either heating or plumbing, in which the misconduct took place.

13 October 1965

STATE BOARDS AND COMMISSIONS; NORTH CAROLINA BOARD OF PHARMACY; SURPLUS PERSONAL PROPERTY; DISPOSITION THEREOF

North Carolina Board of Pharmacy is not an agency of the State within the purview of the statute requiring agency to purchase and sell property through the Division of Purchase and Contract.

1 October 1964

STATE BOARDS AND COMMISSIONS; SOIL AND WATER CONSERVATION DISTRICTS; WATERSHED DISTRICTS; ELECTIONS; ELECTIONS OF TRUSTEES MANDATORY

Election of trustees for Watershed Improvement Districts is mandatory under GS 139-21.

10 May 1966

STATE BOARDS AND COMMISSIONS; STATE EDUCATION ASSISTANCE AUTHORITY; INVESTMENT OF FUNDS; DISPOSITION OF EARNINGS ON INVESTMENTS

The funds appropriated and made available to the State Education Assistance Authority upon authorization of the Authority may be invested by the State Treasurer in the same type of securities as are authorized for the investment of reserves of domestic life insurance companies; the proceeds of the investments become a part of the corpus or principal of said funds and do not revert to the general fund of the State.

5 August 1965

STATE BOARDS AND COMMISSIONS; STATE HIGHWAY COMMISSION; DEPARTMENT OF ARCHIVES AND HISTORY; USE OF APPROPRIATION FOR PURPOSE OF PURCHASING HISTORICAL MARKERS TO FINANCE MARKER SURVEY PROGRAM

G. S. 136-43, which authorizes the State Highway Commission to expend funds for the purchase of historical markers on sites selected by the Department of Archives and History, does not authorize the expenditure of the funds for the purpose of financing a survey of historical highway markers by the Department of Archives and History.

5 August 1965

STATE BOARDS AND COMMISSIONS; STATE HIGHWAY COMMISSION; EMINENT
DOMAIN; EFFECT OF EXERCISE OF EMINENT DOMAIN ON TITLE TO PROPERTY
CONVEYED FOR SPECIAL USES AND SUBJECT TO DIVESTMENT

When lands have been conveyed to a municipality for park purposes only, and are subject to divestment if used for other purposes, an appropriation of a portion of said land by the State Highway Commission for highway purposes under its powers of eminent domain would not cause the municipality to be divested of its possessory estate and the municipality would be entitled to just compensation for the lands appropriated.

16 July 1965

STATE BOARDS AND COMMISSIONS; STATE HIGHWAY COMMISSION; POLITICAL
ACTIVITY OF MEMBERS, OFFICIALS AND EMPLOYEES

G. S. 136-13.1 does not prohibit Commission members, officials and employees of the State Highway Commission from working on behalf of the Highway Bond Referendum.

STATUTES

13 May 1966

STATUTES; STATUTORY CONSTRUCTION; "FULL AGE"

The legal phrase "full age" in this State means twenty-one years or over.

TAXATION

18 June 1965

TAXATION; AD VALOREM; ASSESSMENT PROCEDURE; ASSESSMENT RATIO

The ad valorem tax assessment ratio adopted by boards of county commissioners is required to be uniformly applied to all taxable property, both real and personal, within the county.

16 February 1965

TAXATION; AD VALOREM; COUNTY BOARD OF EQUALIZATION AND REVIEW;
REVALUATION OF REAL PROPERTY; REVALUATION IN OFF YEAR

A county Board of Equalization and Review does not have the power to change the valuation of any real property in the county from the value at which it was assessed for the preceding year except in accordance with the terms of G. S. 105-278 and G. S. 105-279.

10 November 1964

TAXATION; AD VALOREM; EXEMPTIONS; CEMETERY LOTS HELD FOR PURPOSE
OF SALE

Cemetery burial lots held for the purpose of sale are subject to ad valorem taxation regardless of the use to which the proceeds of sale are to be put.

4 February 1966

TAXATION; AD VALOREM; EXEMPTIONS; CHAMBERS OF COMMERCE

Property belonging to Chambers of Commerce is not exempt from ad valorem taxation.

2 May 1966

TAXATION; AD VALOREM; EXEMPTIONS; CHURCH-OWNED PROPERTY;
PROPERTY HELD FOR CEMETERY PURPOSES; PROPERTY HELD
FOR FUTURE CHURCH BUILDING

Church property held for burial purposes and not for sale is exempt from ad valorem taxes.

A vacant tract of land owned by a church and held for the erection of a new church at sometime in the future but upon which no religious services are held nor used for present church purposes is not exempt.

9 June 1965

TAXATION; AD VALOREM; EXEMPTIONS; COLLEGE-OWNED PROPERTY; RENTAL

Houses owned by a nonprofit educational institution and located on or adjacent to the campus and rented to the faculty or students are exempt from ad valorem taxation, but houses rented by such institutions to persons not connected with the school are taxable.

31 January 1966

TAXATION; AD VALOREM; EXEMPTIONS; MERCHANT'S ASSOCIATION

Personal property and real estate owned by a merchant's association are not exempt from ad valorem taxation.

31 January 1966

TAXATION; AD VALOREM; EXEMPTION; PERSONAL PROPERTY; COTTON HELD
SUBJECT TO TRANSIT PRIVILEGES

G. S. 105-297 (15) provides an ad valorem tax exemption for "all cotton while subject to transit privileges under Interstate Commerce Commission Tariffs."

22 July 1965

TAXATION; AD VALOREM; EXEMPTIONS; PERSONAL PROPERTY; PROPERTY
OWNED BY PRIVATE SCHOOL OF COMMERCE

The personal property of private educational institutions located or contained in buildings wholly devoted to educational purposes which belong to educational institutions, such as industrial schools, business schools, etc., is exempt from ad valorem taxation.

21 October 1965

TAXATION; AD VALOREM; EXEMPTIONS; REAL PROPERTY; CHURCH-OWNED
PROPERTY USED AS GIFT SHOP BY LADIES' AUXILIARY

Church owned property used to house a commercial enterprise is not exempt from ad valorem taxation although the profits from such commercial enterprise inured to the benefit of the church.

3 February 1966

TAXATION; AD VALOREM; EXEMPTIONS; REAL PROPERTY; COUNTY OWNED
PROPERTY USED COMMERCIALY

County owned real estate devoted to commercial purposes is subject to taxation by the municipality in which it is situated.

23 March 1966

TAXATION; AD VALOREM; EXEMPTIONS; REAL PROPERTY; NONPROFIT
HOSPITAL RENTED FOR COMMERCIAL PURPOSES

Real property owned by a nonprofit, charitable hospital but rented for commercial purposes is subject to ad valorem taxation.

26 April 1965

TAXATION; AD VALOREM; EXEMPTIONS; REAL PROPERTY; PROPERTY OWNED
BY EDUCATIONAL INSTITUTIONS

Real property owned by a college and rented out commercially is subject to ad valorem taxation, but buildings and houses owned by the college and situated on its premises and used as living quarters by the students and faculty are exempt.

19 November 1964

TAXATION; AD VALOREM; FORECLOSURES; ADVANCE COSTS

Municipalities or any other taxing units are not required to pay advance court costs, including sheriff's fees, upon the filing of tax foreclosure suits.

25 October 1965

TAXATION; AD VALOREM; INHERITANCE TAXES; ASSESSED AGAINST
PROPERTY HELD AS TENANTS BY THE ENTIRETIES; DECEASED DYING
BETWEEN JANUARY 1 AND JUNE 30

Ad valorem taxes assessed against realty held by the entireties are proper charge against the estate of the husband who died between January 1 and June 30 of the year in which the tax was assessed.

1 October 1964

TAXATION; AD VALOREM; LIENS; EFFECTIVE DATE OF LIENS

Personal property ad valorem taxes and the lien thereof relate back to January 1 of each year.

15 March 1966

TAXATION; AD VALOREM LIENS; OLD AGE AND DISABILITY ASSISTANCE
LIENS; REMEDIES

Old age and disability liens attach to the realty of the recipient of the assistance at the time the notice of lien is filed in the Clerk of Court's office although the amount of the lien cannot be determined until the termination of the assistance.

20 April 1965

TAXATION; AD VALOREM; LIENS; LIEN OF PERSONAL PROPERTY TAXES OF
ONE TAXING UNIT UPON AFTER-ACQUIRED REAL ESTATE IN
ANOTHER TAXING UNIT

Ad Valorem tax assessed against personal property does not become a lien upon real property, nor does it become a lien upon real property situated in another taxing unit.

13 September 1965

TAXATION; AD VALOREM; LIEN OF PERSONAL PROPERTY TAXES UPON
REALTY HELD BY THE ENTIRETIES

Taxes upon personal property owned individually by one spouse do not become a lien upon real estate owned by the entireties.

7 May 1965

TAXATION; AD VALOREM; LISTING AND ASSESSING; APPURTENANCES

The value of appurtenances to land, such as rights of way or rights of ingress and egress to the land, should be included in the valuation of the land for ad valorem tax purposes.

5 May 1966

TAXATION; AD VALOREM; OCTENNIAL REASSESSMENT AND REVALUATION;
CHANGING OCTENNIAL PERIOD

A Board of County Commissioners may hold an octennial revaluation earlier than provided in the schedule of revaluation under G. S. 105-278, but in doing so it establishes a new octennial period.

25 January 1966

TAXATION; AD VALOREM; PERSONAL PROPERTY; NEWLY ANNEXED TERRITORY

Under G. S. 160-453.17(f), personal property which was within territory newly annexed by a municipality between January 1 and June 30 is subject to ad valorem taxes of the municipality for the fiscal year beginning July 1 next following annexation although the property was removed from the newly annexed territory prior to the effective date of annexation.

17 September 1964

TAXATION; AD VALOREM PERSONAL PROPERTY; TAXABLE SITUS; AUTOMOTIVE
EQUIPMENT

Automotive equipment used in connection with a business operated in a township other than the residence of the owner should be listed for ad valorem taxation in the township in which the place of business is located.

8 April 1965

TAXATION; AD VALOREM PERSONAL PROPERTY; TAXABLE SITUS; DIRT MOVING
EQUIPMENT

Earth moving equipment which moves from place to place in accordance with the requirements of its use should be listed for ad valorem tax purposes at the residence of the owner.

29 July 1964

TAXATION; AD VALOREM; PERSONAL PROPERTY; TAXABLE SITUS;
GRAIN OWNED BY DEALER

Grain purchased by a grain dealer should be listed for ad valorem taxes at the residence of the grain dealer unless such grain is in storage as of January 1 in a storage place owned or leased by the dealer elsewhere.

29 December 1965

TAXATION; AD VALOREM; PERSONAL PROPERTY; TAXABLE SITUS;
LISTING RESIDENCE

Taxable personal property should be listed for taxation in the township in which the owner resides regardless of whether such property is kept in that township unless its taxable situs is governed by one of the exceptions set out in G. S. 105-302.

8 April 1965

TAXATION; AD VALOREM; PERSONAL PROPERTY; TAXABLE SITUS; MOTOR VEHICLES; AUTOMOBILE GARAGED AT HOME OF SALESMAN WHEN NOT IN USE

An automobile used in connection with a branch warehouse but garaged at a salesman's home when not in use should be listed for ad valorem taxation in the county wherein the warehouse is situated rather than in the county wherein the salesman lives.

14 April 1965

TAXATION; AD VALOREM; PERSONAL PROPERTY; TAXABLE SITUS;
SERVICEMEN

Personal property owned by a serviceman does not acquire a taxable situs at a place where the serviceman is situated by virtue of military orders, but rather retains the place of the residence of the serviceman as its taxable situs unless such personal property is used in connection with a business.

26 April 1965

TAXATION; AD VALOREM; PERSONAL PROPERTY; TAXABLE SITUS;
TRACTOR-TRAILER UNITS OCCASIONALLY PARKED AT DRIVERS'
HOMES FOR PERSONAL CONVENIENCE

Tractor-trailer units occasionally parked at the driver's residence for personal convenience do not thereby acquire a taxable situs at the residence of the driver.

2 July 1965

TAXATION; AD VALOREM; PERSONAL PROPERTY; TAXABLE SITUS;
TRUCKS USED IN CONNECTION WITH BUSINESS

The ad valorem tax situs of trucks used in connection with a business is at the place where the principal office of the business is located or the office in connection with which the trucks are used is located, unless the trucks are used in connection with a warehouse or similar place located at a place different from that of the office, in which event the taxable situs is the place where the warehouse or other similar adjunct to the business is located.

11 August 1964

TAXATION; AD VALOREM TAXES; PROPERTY NOT LISTED DURING
PRIOR YEARS; COMPROMISE

The boards of county commissioners may adjust or compromise claims for taxes upon property which had been unlisted but which was picked up and put on the tax books under the provisions of G. S. 105-331.

8 June 1965

TAXATION; AD VALOREM; REAL PROPERTY; ASSESSMENTS; DATE AS OF
WHICH ASSESSMENT IS MADE

All property is listed for ad valorem taxation as of January 1 of each year, and the taxes for the entire year are due upon said property although same may be removed from the taxing jurisdiction before the end of the tax year beginning on the ensuing July 1.

26 April 1965

TAXATION; AD VALOREM; REAL PROPERTY; COUNTY TAXATION; PROPERTY
OWNED BY MUNICIPALITY AND HELD FOR STREET EXTENSION BUT RENTED
OUT PENDING SUCH EXTENSION

Real property owned by a municipality and held for rental purposes rather than for governmental purposes is subject to ad valorem taxation by the county in which it is situated.

16 February 1966

TAXATION; AD VALOREM; REAL PROPERTY; PARSONAGE RENTED ON
COMMERCIAL BASIS

A parsonage owned by a church, but not used as the residence of the preacher, but rented, is subject to ad valorem taxes although the rents inure to the benefit of the church.

15 March 1965

TAXATION; AD VALOREM; REAL PROPERTY; TRACT LYING IN TWO COUNTIES;
PLACE FOR LISTING

Where a single tract or parcel of real estate lies in two counties, the part lying in each county should be listed therein for ad valorem tax purposes.

27 October 1965

TAXATION; AD VALOREM; REFUND AND REMISSION; TAXES ASSESSED
THROUGH CLERICAL ERROR

Ad valorem taxes required to be paid through clerical error or by taxes levied in excess may be refunded upon taxpayer making demand in writing upon the governing board of the city or county to which such taxes were paid within two years of said time taxes were due to be paid.

24 June 1966

TAXATION; AD VALOREM; REVALUATION IN NONOCTENNIAL YEARS;
DEMOLITION OF BUILDINGS

When property has been legally assessed for ad valorem taxes, the Board of County Commissioners has no authority to release or remit any portion

of the taxes assessed for any reason, including the demolition of condemned buildings after January 1.

12 January 1966

TAXATION; AD VALOREM; SOLDIERS' AND SAILORS' CIVIL RELIEF ACT;
HOUSE TRAILERS

A house trailer owned by a non-resident serviceman stationed in this State by virtue of military orders, but set up on concrete blocks and certain additions attached such as additional rooms, porches, etc., becomes a part of the realty where the lot is owned by the serviceman so as to become liable for ad valorem taxation where located.

10 December 1965

TAXATION; AD VALOREM; TAXES ILLEGALLY COLLECTED; REFUNDS

Counties and municipalities have no authority to refund taxes, although illegally collected, unless demand is made for such refund in writing within two years of the date the taxes were due to be paid.

22 July 1965

TAXATION; CORPORATE INCOME TAX; APPORTIONMENT FORMULA;
CORPORATE SELLING AGENT

A corporate taxpayer acting as a selling house or selling agent for a manufacturer of goods and deriving its income principally from commissions on sales made by the manufacturer should compute its net apportionable income to North Carolina in accordance with the gross receipts ratio contained in G. S. 105-134(6) (f).

4 August 1965

TAXATION; CORPORATE INCOME TAXES; ECONOMIC LOSS DEDUCTION;
NONTAXABLE INCOME; DEDUCTIBLE DIVIDENDS AND INTEREST

In computing the amount of its net economic loss deduction under G. S. 105-147 (9) (d) (2), a taxpayer must diminish its allowable deductions for the year by the amount of any interest or dividend deductions provided in G. S. 105-147 (7) and (8). However, interest and dividend deductions provided in G. S. 105-147(7) and (8) are available to the taxpayer in a subsequent year and may not be used by the Department of Revenue as an offset against any carryover net economic loss claimed in the same year as the taxpayer under G. S. 105-147(9) (d) (3).

24 February 1966

TAXATION; FRANCHISE TAX; RESERVATIONS OR DEDUCTIONS RESERVED FOR
STATE INCOME TAX LIABILITY

A corporate taxpayer may not exclude from its franchise tax base an in-

come tax reserve set up on its books for the future payment of taxes on deferred profits arising from installment sales.

20 July 1965

TAXATION; INHERITANCE TAX; POWER OF APPOINTMENT; RIGHT TO INVADE
PRINCIPAL OF A TRUST

A life beneficiary of a trust is considered to have a general power of appointment within the meaning of G. S. 105-2(5) as to the principal of a trust where such beneficiary has the right to invade or consume the principal of the trust and such right to invade or consume the principal of the trust is not limited by an ascertainable standard relating to the health, education, support or maintenance of the life beneficiary. The fact that such power in the life beneficiary is exercisable in conjunction with another person would not change the general nature of the power unless such person possesses an interest in the property adverse to the exercise of the power in favor of the life beneficiary.

14 July 1965

TAXATION; INHERITANCE TAX; RATE OF TAX; ILLEGITIMATES

Illegitimates inheriting from their putative father are "lineal issue" within the meaning of G. S. 105-4 where such illegitimates had been legitimated in accordance with the provisions of G. S. 49-10 or G. S. 49-12. In the absence of legitimation as therein provided, illegitimates are not considered to be in the blood line of their putative father, and properties received from him or any of his kin are taxed at the rate provided in G. S. 105-6.

23 February 1966

TAXATION; INTANGIBLES TAX; BENEFICIAL INTEREST IN A FOREIGN TRUST
COMPRISED IN PART OF REAL PROPERTY LOCATED IN A FOREIGN JURISDICTION

Income received by a foreign trust from real estate located outside of North Carolina must be included in the total income factor used in computing a resident beneficiary's equitable interest in a foreign trust for intangibles tax purposes.

23 February 1966

TAXATION; INTANGIBLES TAX; BENEFICIAL INTEREST IN A FOREIGN TRUST
COMPRISED IN PART OF UNITED STATES GOVERNMENT BONDS

Income received by a foreign trust from United States Government bonds must be included in the total income factor used in computing a resident beneficiary's equitable interest in a foreign trust for intangibles tax purposes.

24 May 1966

TAXATION; INTANGIBLES TAX; EQUITABLE OR BENEFICIAL INTEREST IN A
FOREIGN TRUST; TRUST FOR YEARS

In computing the intangibles tax on the interest of a resident beneficiary in a foreign trust who possesses both the right to receive the income from the trust for a specific number of years and at the end of such period to receive the trust corpus, the .25% rate prescribed by G. S. 105-204 should be applied to the aggregate value of the two rights.

31 May 1966

TAXATION; INTANGIBLES TAXES; TRUST; NORTH CAROLINA TRUSTEE FOR
NONRESIDENT BENEFICIARY; CUMULATIVE INCOME

Intangibles held by a resident trustee for a non-resident beneficiary are taxable when the income from the intangibles are cumulative rather than distributable.

25 January 1966

TAXATION; PRIVILEGE LICENSE TAX; AIR CONDITIONING CONTRACTORS

Air conditioning contractors are subject to privilege license taxes under G. S. 105-54, "Contractors and construction companies," rather than under G. S. 105-91, "Plumbers, heating contractors, and electricians."

17 June 1966

TAXATION; PRIVILEGE LICENSE TAXES; ITINERANT MERCHANTS

A merchant who does business for less than six consecutive months whether in one tax year or in the year in which he begins business and in the succeeding tax year would be considered an "itinerant merchant" within the purview of G. S. 105-53(d), but if he continues to do business in six or more consecutive months, including the end of one tax year and the beginning of the succeeding tax year, he would not be considered an "itinerant merchant."

19 March 1965

TAXATION; PRIVILEGE LICENSE TAXES; MERCHANDISING DISPENSERS AND
WEIGHING MACHINES; MACHINES OPERATED FOR THE BENEFIT OF THE
VISUALLY HANDICAPPED

An operator of five or more merchandising dispensers selling products for less than 5¢ is liable for the tax levied under Subsection (a) of G. S. 105-65.1, notwithstanding the fact that 20% or more of the gross revenue from such dispensers inures to the benefit of the visually handicapped.

15 October 1964

TAXATION; PRIVILEGE LICENSE TAXES; MUNICIPAL; REFUNDS

If the privilege for which a municipal privilege license was procured has been exercised, the license fee paid for such municipal privilege license is not refundable even though the taxpayer was unable to obtain a State privilege license and had to discontinue such operation.

31 August 1964

TAXATION; PRIVILEGE LICENSE TAXES; MUNICIPAL; "SALES PROMOTION" ACTIVITIES

Under the provisions of G. S. 160-56, municipalities may levy an annual privilege license tax upon all trades, businesses and professions carried on or enjoyed within the corporate limits unless otherwise prohibited by law.

19 May 1966

TAXATION; PRIVILEGE LICENSE TAXES; MUNICIPAL; SOFT DRINK VENDORS

A municipal corporation may levy a license tax upon soft drink stands notwithstanding the drinks are sold through vending machines upon which the State tax has been paid.

10 May 1965

TAXATION; PUBLIC SCHOOLS; LEVY OF TAX FOR CAPITAL OUTLAY PURPOSES

County commissioners may levy a tax for capital outlay purposes for the objectives set forth in G. S. 115-86, and the proceeds from this tax, if used for these purposes, and as agreed upon in budgets, does not have to be apportioned on a per capita enrollment basis.

19 January 1965

TAXATION; RULES AND REGULATIONS; COMMISSIONER OF REVENUE

An Administrative Rule promulgated by the Commissioner of Revenue may not be inconsistent with the law or a regulation approved by the Tax Review Board. Therefore, the Commissioner cannot amend or supersede a valid Tax Regulation by an Administrative Rule.

17 February 1966

TAXATION; SALES TAX; DEFINITION OF THE TERM "SALES PRICE"

The term "sales price" as used in the North Carolina Sales and Use Tax Act means the total amount for which tangible personal property is sold without any diminution for cash discounts (reductions in purchase price for payment by a specified date).

5 April 1966

TAXATION; SALES AND USE TAXES; EXEMPTIONS; ARTICLES TAKEN IN TRADE

Used articles taken in trade are subject to sales tax when resold unless sales tax has been paid upon the sale of the new article when the used article was taken in trade.

18 May 1966

TAXATION; STATE; CONSTITUTIONAL LIMITATION; NECESSARY EXPENSE

The State is not a municipality within the meaning of the constitutional provision relating to necessary expenses of a municipal corporation.

8 July 1964

TAXATION; TAX-SHELTERED ANNUITIES; NO ENABLING LEGISLATION EXCEPT FOR PUBLIC SCHOOLS

The enabling act of the 1963 General Assembly, authorizing the purchase of tax-sheltered annuities for teachers, is limited to employees of county and city boards of education. No similar enabling legislation was enacted with respect to other educational institutions.

TORT CLAIMS ACT

30 August 1965

TORT CLAIM ACT; TORT LIABILITY OF STATE PORTS AUTHORITY IN OPERATION OF SMALL BOAT HARBOR

In the operation of a small boat facility, where a charge is made for the use of the facilities, the State Ports Authority is liable only for the negligent acts of its employees, and not their omissions, under the Tort Claims Act. Due care, which men of ordinary prudence take of their own property in similar circumstances, must be used in the operation. Liability being governed by statute, no waivers should be sought from users of the facility.

WEAPONS

29 September 1965

WEAPON; CARRYING CONCEALED WEAPONS; PRIMA FACIE; SECURITY GUARD OF KU KLUX KLAN LEADING MARCH AND WEARING A REVOLVER IN HOLSTER; GOING ABOUT ARMED WITH UNUSUAL AND DANGEROUS WEAPON TO THE TERROR OF THE PEOPLE

The carrying of a pistol in a holster by a security guard leading a parade in a municipal corporation is an offense at common law and may also be regulated by ordinances; the use of police dogs in a parade may be regulated by ordinances.

19 August 1965

WEAPONS; CARRYING CONCEALED WEAPONS; RIFLE UNDER AUTOMOBILE SEAT

The carrying of a .22 caliber rifle under the seat of a pickup truck so that the same is concealed is a violation of G. S. 14-269.

14 October 1965

WEAPONS; ISSUANCE OF PERMIT BY CLERK

The responsibility for issuing permits for the purchase of weapons specified in G. S. 14-402 still rests in the Clerk of Superior Court in those counties which were excepted from the operation of the 1959 amendment which transferred this duty to the Sheriffs of various counties.

24 February 1966

WEAPONS; PURCHASE OF WEAPONS OUTSIDE NORTH CAROLINA BY NORTH CAROLINA RESIDENT

A North Carolina resident who goes outside North Carolina and purchases or receives a pistol or other weapon enumerated in G. S. 14-402 is not required to obtain a license or permit from the sheriff or clerk of superior court.

WELFARE LAWS

27 April 1965

WELFARE LAWS; ADOPTIONS; ABILITY OF PETITIONERS TO PROVIDE FOR THE CHILD; PROPERTY OF CLERK SIGNING ORDER WHEN ADOPTIVE PARENTS ARE WELFARE RECIPIENTS

Although G. S. 48-22 (b) provides that the final order of adoption must state that the petitioners are financially able to provide for the child sought to be adopted, it is within the discretion of the court as to whether the court will sign the final order of adoption when it is known to the court that the petitioners in the adoption proceeding are receiving a welfare check for the support of the child sought to be adopted.

29 October 1965

WELFARE LAWS; ADOPTIONS; ENTRY OF NAME OF DECEASED PETITIONER ON NEW BIRTH CERTIFICATE

Where an adoption proceeding has been instituted and the interlocutory decree has been entered and one of the petitioners who seek to adopt the child dies before the final order of adoption has been entered, and the wife or husband of such deceased petitioner shall thereafter obtain a final order of adoption, the Office of Vital Statistics, North Carolina State Board of

Health should show the name of such deceased petitioner in the space provided on the new birth certificate required by G. S. 48-29.

8 April 1966

WELFARE LAWS; ADOPTIONS; EXAMINATION OF CERTAIN RECORDS BY
ATTORNEY FOR PETITIONERS

In the absence of an order of the clerk approved by the judge as described in G. S. 48-25 (c) and in G. S. 48-26, it is within the discretion of a director of a county department of public welfare as to whether the attorney for petitioners in an adoption proceeding will be permitted to examine originals or copies of documents or other written materials pertaining to an adoption proceeding and which is in the possession of a county department of public welfare.

9 November 1965

WELFARE LAWS; ADOPTIONS; INVESTIGATION BY DIRECTOR OF PUBLIC WELFARE; FAILURE OF DIRECTOR TO MAKE REPORT OF INVESTIGATION WITHIN 60 DAYS; CLERK OF COURT; AUTHORITY OF CLERK TO PUNISH FOR CONTEMPT

In an adoption proceeding, if the clerk of superior court orders the director of public welfare to make the investigation required by G. S. 48-16 and includes in the order that the report of the investigation be made within 60 days as required by G. S. 48-16, and if the director fails to make the report of the investigation within the 60 days, the clerk may issue an order to the director to appear before the clerk to show cause why the director should not be punished for contempt, and if the director shall fail to appear, or if upon appearance of the director the clerk determines that the director's failure to make the report within the required time was willful, the clerk may punish the director for contempt in accordance with the provisions of G. S. 5-4.

13 August 1965

WELFARE LAWS; ADOPTION OF MINORS; FINDING OF ABANDONMENT
BY JUVENILE COURT

A Juvenile Court Judge may acquire jurisdiction of a child by virtue of a petition filed under G. S. 110-25 for the purpose of determining whether the child has been abandoned under G. S. 48-2 (3b) and, upon proper findings of fact, may declare that the child is abandoned under G. S. 48-2. (3b).

22 February 1966

WELFARE LAWS; ADOPTION OF MINORS; FINDING OF ABANDONMENT BY JUVENILE COURT; APPOINTMENT OF NEXT FRIEND TO GIVE OR WITHHOLD CONSENT TO ADOPTION

The Clerk of Superior Court, as Juvenile Judge, has the authority and jurisdiction to declare a child abandoned by its father when the abandon-

ment proceeding is in accordance with G. S. 110-36 and in accordance with G. S. 48-5, and the Clerk may, in the adoption proceeding, appoint a next friend to give or withhold consent based upon the finding of abandonment made by the Juvenile Court of which the Clerk was also the Judge.

14 January 1966

WELFARE LAWS; ADOPTION OF MINORS; FINDING OF ABANDONMENT IN CASE OF CHILD WHO IS IN CUSTODY OF COUNTY DEPARTMENT OF PUBLIC WELFARE AND PLACED IN A HOME BY ORDER OF COURT

If a child has been placed in the custody of the county department of public welfare and then in a child-caring institution or foster home by order of a Juvenile Court or a Domestic Relations Court, and nothing has been done to terminate the jurisdiction of the Juvenile Court or the Domestic Relations Court, the finding of abandonment under G. S. 48-2 (3b) can be made only by the Juvenile Court or the Domestic Relations Court as provided in G. S. 48-5 (b).

5 March 1965

WELFARE LAWS; ADOPTION OF MINORS 18 YEARS OLD AND OVER; CONSENT TO ADOPTION; ABANDONMENT

In the case of a child who is 18 years old at the time of the institution of an action or proceeding to declare the child to be an abandoned child, there is no legal basis for dispensing with a parent's consent to adoption required by G. S. 48-7 (a), by declaring the child to be abandoned or by merely making the parent a party to an action or proceeding by service of process by publication or otherwise.

11 October 1965

WELFARE LAWS; ADOPTIONS; ADOPTION OF PERSONS OTHER THAN MINOR CHILDREN

A person who is 32 years of age may not be adopted in North Carolina.

17 June 1965

WELFARE LAWS; ADOPTIONS; REVOCATION OF CONSENT TO ADOPTION

After written consent to adoption provided for in G. S. 48-7 has been filed with the court, such consent may be revoked only by proper notice to the court within the time permitted by G. S. 48-11.

30 July 1965

WELFARE LAWS; AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE DURING THE SUMMER MONTHS; CHILDREN OVER 18 YEARS OF AGE

Under G. S. 108-50 (1), subject to all other requirements of eligibility, a child who is over 18 years of age is eligible for welfare assistance during the summer months if no gainful employment is available.

24 September 1965

WELFARE LAWS; COUNTY COMMISSIONERS; PAUPERS; AUTHORITY OF COUNTY COMMISSIONERS TO PAY FOR FUNERAL EXPENSES OF A PAUPER

Under G. S. 153-152, the Commissioners of a county are authorized to appropriate money for the reasonable burial expense for bodies which would not otherwise be buried and which cannot be disposed of under G. S. 90-212. The County Commissioners are without authority to reimburse a person who has incurred burial expense or furnished burial services without a prior commitment by the county to pay for such burial or burial service.

16 February 1966

WELFARE LAWS; COUNTY COMMISSIONERS; AUTHORITY TO USE COUNTY TAX FUNDS TO PAY EDUCATIONAL SUPPLEMENTS FOR WELFARE WORKERS

County Commissioners may provide for the use of tax funds to pay an educational supplement to a welfare worker, who is on educational leave under a State administered scholarship, to the extent necessary to pay the difference in the State administered scholarship and the established wage which the welfare worker was earning while carrying out the normal duties of his or her position, provided the worker is undergoing, at some institution, formal schooling which will substantially increase the worker's fitness to serve as a welfare worker.

29 April 1966

WELFARE LAWS; COUNTY WELFARE BOARDS; NUMBER OF MEMBERS

In order to be legally constituted a county board of public welfare must be composed of three or five members. However, four members may act in the appointment of a fifth member in accordance with the pertinent portion of G. S. 108-11 which provides that "the four (4) members so appointed shall select a fifth member."

23 February 1966

WELFARE LAWS; COURTS; JUVENILE; DOMESTIC RELATIONS COURTS; PROBATION OFFICERS; AUTHORITY OF STATE BOARD OF PUBLIC WELFARE TO REQUIRE PROBATION OFFICERS TO MAKE REPORTS

The State Board of Public Welfare may require the probation officers of Juvenile Courts and Domestic Relations Courts to complete and furnish to the State Board of Public Welfare, on statistical cards furnished by the State Board of Public Welfare, information called for on such cards to the extent of information that the probation officers have as a result of investigations made by them or as a result of children being under their supervision or in their charge.

28 February 1966

WELFARE LAWS; COURTS; JUVENILE; MINORS; CUSTODY OF CHILDREN DURING
AND AFTER CONDITIONAL RELEASE FROM TRAINING SCHOOLS

By virtue of G. S. 108-14, Subsection 7, a minor who is over the age of 16, who is dependent, and who lives in a boarding home and receives public support, is subject to the "oversight" of the director of public welfare. If a child who is 16 or more years of age does not choose to continue to receive public support, there is no law that will effectively compel such a minor to remain at any particular place or to do the bidding of any particular official or person, unless, of course, the juvenile court has acquired jurisdiction over the child under circumstances that would permit that jurisdiction to extend throughout the minority of the child. The juvenile court may not, either by modification of existing orders or by action upon a new petition, extend the jurisdiction of the juvenile court throughout the minority of a child, in the case of a child who becomes 16 years of age while he is committed to an institution supported and controlled by the State, or while he is on conditional release from such an institution.

24 March 1965

WELFARE LAWS; COURTS; JUVENILE; PROBATION; FOSTER CARE; DETENTION
OF CHILDREN

The expense of paying an assistant probation officer appointed by the governing body of a City under the provisions of G. S. 110-44 must be borne by the City.

25 March 1965

WELFARE LAWS; DAY CARE; PAYING COST FOR CHILDREN WHEN MOTHER AND
FATHER WORK

There is no legal authority for the use of State funds for the purpose of paying the cost of day care for children of needy families whose mother and father must be away from home at work.

4 January 1966

WELFARE LAWS; DAY CARE CENTERS; STATE BOARD OF PUBLIC WELFARE;
AUTHORITY TO MAKE INSPECTIONS

The State Board of Public Welfare does not have authority for the inspection of privately operated day care centers without the consent of the operators of such centers.

22 June 1965

WELFARE LAWS; ESTATE BY THE ENTIRETIES; OLD AGE ASSISTANCE LIEN;
ORDER OF PRIORITY OF OLD AGE ASSISTANCE LIEN,
JUDGMENT, DEED OF TRUST

When, while a husband and wife own property by entireties, an old age assistance lien is filled against the husband only, and later a judgment

is recorded against the husband, and still later the husband and wife give a deed of trust on the land which is properly recorded, and then the wife dies, the deed of trust has first priority, and then the old age assistance lien has priority over the lien of the judgment.

23 April 1965

WELFARE LAWS; HOMES FOR THE AGED; OWNERSHIP OF HOME CORPORATION
OWNERSHIP OF STOCK IN CORPORATION BY SPOUSE OF EMPLOYEE OF WELFARE
DEPARTMENT

When the building or buildings housing a nursing home or a home for the aged or infirm are owned by a corporation, and the spouse of an employee of a county welfare department is an officer, a member of the Board of Directors, and owns 50 percent of the capital stock of the corporation, under the terms of G. S. 108-9 (b) (2) and (4), no payment of any public welfare or public assistance funds derived from any source, federal, State, or local, may be made for the care of any person in the home.

22 August 1965

WELFARE LAWS; HOSPITALS; INDIGENT CARE; PER DIEM REIMBURSABLE
COSTS; 1965 BUDGET APPROPRIATIONS ACT; DEDUCTION OF FOUNDATION
FUNDS FROM HOSPITAL REIMBURSABLE COST RATES

The State Board of Public Welfare will be in compliance with the requirement of Section 9 of the 1965 Budget Appropriations Act—"that foundation funds, received by such hospitals for indigent care must be deducted from hospital cost rates"—by changing the formula currently in use, as set forth in Section E of the "Joint Hospital Form 1," by reducing the amount of total allowable hospital expenses by the amount of funds received by a hospital for indigent care, before dividing the amount of such expenses by the number of in-patient days in order to determine the per diem costs reimbursable by the State Board of Public Welfare subject to the limitation of \$22 per diem.

22 June 1965

WELFARE LAWS; JUVENILE DETENTION HOMES; REQUIREMENT FOR
CERTIFICATION OR APPROVAL BY STATE BOARD OF PUBLIC WELFARE

Any home for juveniles set up by virtue of and in accordance with G. S. 153-9 (38) can continue to be lawfully maintained by a county only with the approval of the State Board of Public Welfare. The approval and disapproval of the State Board of Public Welfare may take the form of a certificate of approval, or the revocation of a certificate of approval if the State Board of Public Welfare so desires. Any detention home provided for in G. S. 110-30 or any other detention home other than one provided for by G. S. 153-9 (38) is not subject to the approval or disapproval of the State Board of Public Welfare by issuance or revocation of a certificate of approval or otherwise, with the exception that under G. S. 110-30 "a matron or superintendent, or both, and other necessary employees for

such home" for one type of detention home described in the statutes are to be approved by the State Board of Public Welfare.

11 October 1965

WELFARE LAWS; MARRIAGE OF MINORS; JUVENILE COURTS; DEPARTMENT
OF PUBLIC WELFARE; EFFECT OF MARRIAGE ON CUSTODY ORDER

Marriage of a minor does not terminate the effect of a juvenile court order placing the minor in the custody of a department of public welfare.

31 May 1966

WELFARE LAWS; MEDICAL ASSISTANCE FOR THE AGED; PAYMENTS FOR
INDIGENT MENTAL PATIENTS IN STATE MENTAL INSTITUTIONS

The State Board of Public Welfare may, under appropriate rules which it shall prescribe, provide for the payment for medical services for mental patients in State mental institutions, when such patients are otherwise qualified for assistance under the medical assistance for the aged program, and the State Board of Public Welfare is not limited to making payments for 42 days for each admission.

30 April 1965

WELFARE LAWS; MINORS; COUNTY BOARD OF PUBLIC WELFARE; OWNERSHIP
OF STOCK IN CHILDREN'S HOME BY MEMBER OF COUNTY BOARD

In G. S. 108-9 (b), the words "home for the aged or infirm" include a home for mentally retarded children who are infants or who are as much as six years of age. If a member of a county board of public welfare owns stock in such a home for children, the home is owned or operated in whole or in part by the member of the county board of public welfare within the meaning of G. S. 108-9 (b).

6 August 1965

WELFARE LAWS; NURSING HOMES OWNED AND OPERATED BY CORPORATION;
TRANSFER OF STOCK TO TRUSTEE

When G. S. 108-9 (b) prevents payment of public assistance funds to persons in a nursing home because persons listed in G. S. 108-9 (b) own stock in a corporation which owns and operates the nursing home, temporary transfer of the stock to a trustee will not render G. S. 108-9 (b) inapplicable.

15 February 1966

WELFARE LAWS; OLD AGE ASSISTANCE; AID TO THE PERMANENTLY AND
TOTALLY DISABLED; DUTY OF CHILDREN TO SUPPORT PARENTS

It is not lawful for the State Board of Public Welfare to consider the income of an emancipated or adult child with whom a parent lives in determining that parent's eligibility for old age assistance under G. S. 108-

21 or aid to the permanently and totally disabled under G. S. 108-73.10a or the extent of such payments, except for such portion of the income of the child that is actually provided, in some form, for the support of the parent.

31 December 1965

WELFARE LAWS; OLD AGE ASSISTANCE LIEN; AID TO THE PERMANENTLY
AND TOTALLY DISABLED; TIME FOR FILING ACTION TO ENFORCE LIENS

When, under the Old Age Assistance program or under the Aid to the Permanently and Totally Disabled program, payments are terminated and are resumed under the same program within 10 years after the termination, the 10 year period—during which the action to enforce the lien may be brought under G. S. 108-30.1 or G. S. 108-73.12a—ceases to run, and another 10 year period will begin to run, with respect to payments made both before the termination and after the resumption of payments, when payments are again terminated. When payments under the Aid to the Permanently and Totally Disabled program are terminated, the 10 year period begins to run with regard to such payments, despite the fact that Old Age Assistance payments begin at the time the Aid to the Permanently and Totally Disabled payments are terminated or after a lapse of time after the termination of Aid to the Permanently and Totally Disabled payments.

17 March 1966

WELFARE LAWS; OLD AGE ASSISTANCE LIEN; AID TO THE PERMANENTLY
AND TOTALLY DISABLED; TRANSFER OF REAL ESTATE BY WELFARE RECIPIENT;
APPLICABILITY OF WELFARE PAYMENTS MADE AFTER TRANSFER
OF PROPERTY

Under G. S. 108-30.1 providing for a lien on real estate of recipients of old age assistance, and under G. S. 108-73.12a providing for a lien on real estate of recipients of aid to the permanently and totally disabled, when an assistance recipient conveys real estate, the lien on the property conveyed does not apply to assistance payments made after the date of the conveyance.

20 May 1965

WELFARE LAWS; OLD AGE ASSISTANCE LIEN; COSTS OF COLLECTION

Payment of the costs of collection of money on the basis of an old age assistance lien is in accordance with G. S. 108-30.3 which provides, in part, "all necessary costs incurred in the collection of any claim shall be borne proratably by the United States, the State, and the county in proportion to the share of the sum collected to which each may be entitled," if the costs of collection are paid out of that portion of the amount received from the sale of the property which is not in excess of the amount of the lien, provided that the remainder of such portion is shared pro-

ratably by the county, the State, and the United States in the manner prescribed by G. S. 108-30.3. However, by virtue of other provisions of G. S. 108-30.3, none of the costs of collection should be paid out of that portion of the amount received from the sale of the property which is in excess of the amount of the lien.

12 August 1965

WELFARE LAWS; OLD AGE ASSISTANCE LIEN; LIEN OF STATE
INSTITUTIONS; PRIORITY OF LIENS

The old age assistance lien on real property provided for in G. S. 108-30.1 takes priority over the subsequently acquired lien of a State institution under G. S. 143-126.

4 May 1965

WELFARE LAWS; OLD AGE ASSISTANCE LIEN; SALE OF LAND OWNED BY
TENANTS IN COMMON; DISPOSITION OF PROCEEDS OF DECEASED
TENANT'S INTEREST

When, upon the petition of tenants in common and the administrator of a deceased tenant in common, real property is sold, the old age assistance lien of the county applicable to the proceeds of the deceased tenant's interest under G. S. 108-30.1 is, to the extent of such lien, superior to the claim of the administrator of such proceeds.

30 December 1965

WELFARE LAWS; OLD AGE ASSISTANCE LIEN; SUMMONS; UNKNOWN HEIRS

In an action to enforce an Old Age Assistance lien on real estate as provided for by G. S. 108-30.1, when there are heirs who may have an interest in the property and the names and addresses of such heirs are unknown, valid service of summons may be obtained upon such heirs if such service is obtained by publication in compliance with G. S. 1-98 through G. S. 1-104.

4 May 1966

WELFARE LAWS; PAYMENT BY CLERK OF SUPERIOR COURT OF BILLS FOR
NURSING HOME CARE AS MEDICAL BILLS

Bills for the care of a public assistance recipient in a professional nursing home licensed by the State Board of Health or the North Carolina Medical Care Commission constitute medical bills within the meaning of G. S. 28-68.2 (a) (3) providing for payment by the clerk of "lawful claims for hospital, medical and doctor's bills for the last illness of the deceased . . ." provided that the nursing home care is prescribed by a physician because of the illness or infirmity of the public assistance recipient.

1 July 1965

WELFARE LAWS; PERSONAL REPRESENTATIVES; APPOINTMENT OF NON-
RESIDENT OF THE STATE OF NORTH CAROLINA

A Superior Court Clerk may appoint a non-resident of the State of North Carolina to be a personal representative under the provisions of G. S. 108-76.3 which is captioned, in part, "Personal representatives for recipients of assistance."

8 February 1965

WELFARE LAWS; PUBLIC RECORDS

A member of the public who is by virtue of G. S. 108-14.2, entitled to inspect welfare assistance recipients' lists filed with the county auditor in accordance with G. S. 108-14.1 may copy all or portions of such lists.

12 May 1965

WELFARE LAWS; SOLICITATION OF PUBLIC AID FOR CHARITABLE PURPOSES;
REPORT OF OPERATION OF ORGANIZATION; AUTHORITY OF STATE BOARD
OF PUBLIC WELFARE TO REQUIRE CERTAIN INFORMATION IN THE REPORT

When a health foundation constitutes a charitable organization subject to licensing by the North Carolina State Board of Public Welfare under G. S. 108-80 through G. S. 108-82, and the foundation receives some of its funds through solicitations made in various states by committees which are alleged to be entities separate and apart from the foundation, but over which, by contract, the foundation exercises some control, if the State Board of Public Welfare finds that the committees are a part of the foundation's organization, or that they are agents or representatives of the foundation, regardless of the fact that they may be set up as separate legal entities, and if the foundation declines to include the report required by G. S. 108-81 information concerning the endowment funds, receipts, reserve funds, and disbursements of its entire organization, including the various committees, the Board may decline to find that the foundation is a proper one and not inimical to the public welfare and may decline to issue a license or to re-issue a license to the foundation.

7 January 1966

WELFARE LAWS; STATE BOARD OF PUBLIC WELFARE; LICENSING OF
CHILD CARING INSTITUTIONS

An individual, agency, voluntary association, or corporation must be both caring for and placing children before G. S. 110-49, which requires a permit and license, is applicable to their activities.

7 May 1965

WELFARE LAWS; STATUTORY WELFARE LIENS; FORECLOSURE OF MORTGAGE
ON PROPERTY OF WELFARE RECIPIENT; FUNERAL EXPENSES; PRIORITY
OF WELFARE LIEN; DISPOSITION OF PROCEEDS OF MORTGAGE
FORECLOSURE BY THE CLERK

When a mortgage is foreclosed on real estate which is subject to a wel-

fare lien under G. S. 108-30.1 or G. S. 108-73.12a, and there is a surplus of funds from the sale after satisfaction of the mortgage, the lien of the county on the surplus is, under G. S. 108-30.1 or G. S. 108-73.12a, superior to a claim for the funeral expenses of the deceased mortgagor.

16 May 1966

WELFARE LAWS; UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT;
AUTHORITY OF NORTH CAROLINA COURT TO PROVIDE FOR VISITATION
RIGHTS AS A CONDITION FOR THE REQUIREMENT OF SUPPORT
PAYMENTS TO NONRESIDENT

Where papers are filed under the Uniform Reciprocal Enforcement of Support Act, North Carolina General Statutes Chapter 52A, and the petitioner and the child are in another state, a North Carolina Court does not have the authority to enter an order in regard to visitation rights and withhold payments where the order is not complied with insofar as visitation rights are concerned.

7 April 1965

WELFARE LAWS; UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT;
NONRESIDENT PARENT

It is an offense under G. S. 14-326.1 for an adult child who is a resident of North Carolina not to support his aged parents living in another state providing all the elements of the crime as set forth in G. S. 14-326.1 exist in a given case.

6 April 1965

WELFARE LAWS; UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT;
ILLEGITIMATE CHILD

The North Carolina Uniform Reciprocal Enforcement of Support Act covers cases in which the obligee is an illegitimate child and the paternity of the obligee has not been judicially determined.

WORKMEN'S COMPENSATION

28 December 1964

WORKMEN'S COMPENSATION; SALARIES OF EMPLOYEES OF MENTAL
HEALTH DEPT

Employees of the Department of Mental Health, whose salaries are paid by provisions of a Federal grant, are subject to and entitled to the provisions of the Workmen's Compensation Act. The fact that the source of their salaries is the Federal grant, is immaterial.

NORTH CAROLINA
STATE BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE
RALEIGH

WALTER F. ANDERSON
Director

P. O. Box 2828

NOVEMBER 14, 1966

Honorable Thomas Wade Bruton
Attorney General of North Carolina
Raleigh, North Carolina

Dear Attorney General Bruton:

Submitted herewith is the Biennial Report for the State Bureau of Investigation covering the fiscal years 1964-65 and 1965-66.

During the past biennium the Bureau effectively complied with requests for assistance in 7,197 investigations. Our Crime Laboratory which serves all law enforcement agencies in our State examined and processed 144,079 items of evidence.

For the fiscal years 1964-65 and 1965-66 the Bureau conducted seventeen Law Enforcement Training Schools in Advanced and Specialized Training resulting in the instruction of 656 full-time dedicated law enforcement officers.

The present staff of the Bureau totals fifty-eight. Assigned to Administration 3, Fiscal Affairs 2, Crime Laboratory 8, Services Division 11, Major Criminal Investigations 34.

Under State Statute the Bureau administers the Private Detective Law. There are 101 licensed private detectives and 25 private patrol and guard agencies.

The Bureau furnished 135,000 weekly bulletins to law enforcement agencies in the southeastern states during the biennium. Our Agents worked 38,387 hours overtime without any additional compensation during the past biennium, or an equivalent of ten additional agents per year. We helped recover and return to owners property valued at \$649,320.00.

Sincerely yours,

Walter F. Anderson
Director

The following shows source of requests and types of work for the Fiscal Year 1964-1965:

Offenses	Sheriffs' Dept.	Police Dept.	Highway Patrol	Solicitors	Judges	Executive	Coroners	Misc.	Totals
Assaults	28	12	11	5	—	3	—	—	59
Burglary	53	23	—	2	—	—	—	—	78
Forgery	123	170	1	81	—	25	—	—	400
Homicide	80	22	1	6	—	6	3	—	118
Larceny	74	47	14	2	—	26	—	—	163
Robbery	505	344	—	3	2	60	—	—	914
Sex Offense	22	9	—	7	—	7	—	—	45
Narcotic	41	45	4	—	—	91	—	1	182
Technical	323	480	45	13	2	293	32	2	1,190
Special-All Other	92	95	12	17	20	299	1	—	536
TOTALS	1,341	1,247	88	136	24	810	36	3	3,685

The following shows sources of requests and types of work performed by the Crime Laboratory for the Fiscal Year 1964-1965:

Technical Examinations	Sheriffs' Dept.	Police Dept.	Highway Patrol	Solicitors	Judges	Executive	Coroners	Misc.	Totals
Fingerprint Examinations	4,300	3,300	150	—	—	—	—	—	7,750
Firearms	491	138	—	—	—	—	—	73	702
Document Examinations	860	1,358	—	—	—	1,092	—	168	3,478
Chemical Lab. Examinations	4,500	5,314	2,052	305	—	614	563	1,413	14,761
Psychograph Tests	196	314	—	—	—	—	—	122	632
Tool Marks	50	30	—	—	—	—	—	—	80
Photographs Printed	19,300	17,100	350	—	—	4,419	—	—	41,169
TOTALS	29,697	27,554	2,552	305	—	6,125	563	1,776	68,572

The following shows source of requests and types of work for the Fiscal Year 1965-1966:

Offenses	Sheriffs' Dept.	Police Dept.	Highway Patrol	Solicitors	Judges	Executive	Coroners	Misc.	Totals
Assaults	46	15	12	3	1	3	—	1	81
Burglary	45	30	—	—	—	2	—	—	77
Forgery	95	88	—	14	—	19	—	—	216
Homicide	83	18	5	9	—	1	2	—	118
Larceny	116	58	12	4	1	18	—	2	211
Robbery	619	280	4	2	—	22	—	1	928
Sex Offense	25	14	—	6	—	4	—	1	50
Special-All Other	156	120	27	18	3	235	—	4	563
Technical	383	469	45	8	2	323	17	21	1,268
TOTALS	1,568	1,092	105	64	7	627	19	30	3,512

The following shows sources of requests and types of work performed by the Crime Laboratory for the Fiscal Year 1965-1966:

Technical Examinations	Sheriffs' Dept.	Police Dept.	Highway Patrol	Solicitors	Judges	Executive	Coroners	Misc.	Totals
Ballistic	401	93	—	—	—	—	—	54	548
Chemical	6,263	8,596	1,524	58	—	1,135	375	2,757	20,708
Documents	1,856	1,680	—	—	—	1,152	—	117	4,805
Fingerprints	9,624	3,140	72	—	—	217	—	1,046	14,099
Photographs Printed	15,400	15,400	97	—	—	—	—	3,905	34,802
Polygraph	—	—	—	—	—	—	—	—	—
Tests	191	161	—	—	—	—	—	95	447
Toolmarks	24	37	—	—	—	—	—	37	98
TOTALS	33,757	29,107	1,693	58	—	2,504	375	8,011	75,507

SUPERIOR COURT—YEAR 1964—STATE WIDE CRIMINAL CONVICTIONS BY MAJOR CLASSIFICATION

Offense	Sex	White				Colored				Unclassified**		
		Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros
Assaults—2,873												
1. Aggravated (1,383)	M	226	38	90	11	455	87	116	14	158	43	6
	F	12	6	7	4	49	6	19	4	—	—	—
2. Non-Aggravated (1,490)	F	361	71	219	25	370	43	152	20	41	8	20
		27	2	19	—	59	—	41	5	—	—	—
Burglary—3,454	M	1635	45	190	22	1189	51	111	17	103	12	33
	F	18	1	4	—	10	7	3	—	—	—	—
Forgery—1,893	M	832	10	87	—	488	9	51	—	94	5	24
	F	149	69	29	—	100	—	5	—	—	—	—
Fraud-Embezzlement 1,680	M	885	38	280	9	176	11	35	2	71	5	40
	F	45	3	6	3	61	—	6	1	—	—	—
Homicide—494	M	86	49	25	4	174	45	20	—	11	11	13
	F	12	8	2	—	20	10	4	—	—	—	—
Larceny—2,639	M	1298	72	181	20	626	55	116	5	80	5	39
	F	53	8	8	2	46	9	11	2	—	—	—
Robbery—307	M	84	13	13	—	113	20	36	1	7	2	9
	F	1	2	—	—	2	1	1	2	—	—	—
Sex Offense—370												
1. Rape (62)	M	9	6	7	—	10	12	12	—	2	3	1
	F	—	—	—	—	—	—	—	—	—	—	—
2. Other (308)	M	92	25	39	2	44	15	22	7	9	2	12
	F	16	2	7	—	9	—	5	—	—	—	—
Pure Food & Drug—34	M	10	2	2	1	9	—	—	1	5	—	1
	F	2	—	—	—	1	—	—	—	—	—	—
Motor Vehicle—6,249												
1. Drunken Driver—(1,691)	M	949	177	137	61	216	51	27	12	1	—	—
	F	27	14	4	3	5	4	2	1	—	—	—
2. Other (4,558)	M	2251	136	618	126	647	39	214	30	152	15	49
	F	124	1	41	8	64	2	29	1	—	—	—
Domestic Welfare—1,041	M	404	48	131	41	196	32	61	24	42	6	22
	F	11	—	3	1	9	1	3	1	—	—	—
Gambling—46	M	13	1	4	—	7	—	11	1	4	—	2
	F	—	—	—	—	—	—	3	—	—	—	—
Prohibition—970	M	225	26	27	11	303	32	44	6	118	5	26
	F	7	2	4	4	105	7	12	4	—	—	—
Disorderly Conduct—1,489												
1. Intoxicated (1,158)	M	572	18	100	52	223	7	46	16	37	—	13
	F	34	1	9	3	22	—	3	—	—	—	—
2. Other (331)	M	74	14	46	14	59	5	37	5	7	1	16
	F	17	1	8	4	12	2	8	1	—	—	—
Other Offenses—3,095	M	827	78	331	56	403	51	600	19	104	10	62
	F	68	4	45	9	46	7	352	13	—	—	—
Totals—26,634		11,456	928	2,723	496	6,328	621	2,218	215	1,046	133	389

** Clerks failed to list Race & Sex

SUPERIOR COURT—YEAR 1965—STATE WIDE CRIMINAL CONVICTIONS BY MAJOR CRIME CLASSIFICATION

Offense	Sex	White				Colored				Unclassified**			
		Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other
Assaults													
Aggravated (1,224)	M	230	52	108	12	401	84	145	13	25	11	26	3
	F	8	10	5	2	56	8	23	2	—	—	—	—
Non-Aggravated (1,255)	M	309	53	191	22	299	38	146	12	29	6	18	2
	F	18	1	36	1	7	1	64	2	—	—	—	—
Larceny—2,942	M	1191	41	133	14	1046	51	263	12	80	—	36	0
	F	51	3	6	0	4	3	2	0	2	0	0	0
Burglary—1,614	M	584	9	128	0	474	8	66	0	83	4	10	0
	F	125	1	15	0	83	1	19	0	4	0	0	0
Theft and Embezzlement—1,670	M	779	32	220	22	218	8	69	5	64	0	29	1
	F	157	7	20	2	26	2	8	0	1	0	0	0
Murder—487	M	87	46	46	2	161	32	15	1	16	5	8	0
	F	11	5	4	0	31	12	5	0	0	0	0	0
Receivory—2,268	M	849	61	209	11	679	39	156	6	186	90	54	1
	F	28	4	11	2	42	3	14	4	0	0	0	0
Robbery—385	M	85	11	23	2	149	31	48	2	11	2	12	0
	F	4	0	0	0	2	2	1	0	0	0	0	0
Sex Offense—344													
Rape (81)	M	15	7	10	1	13	10	17	1	0	1	2	0
	F	3	0	1	0	0	0	0	0	0	0	0	0
Other (263)	M	68	17	41	5	51	21	20	0	3	4	10	3
	F	8	2	5	0	1	0	4	0	0	0	0	0
Possession of Food & Drug—15	M	7	0	0	2	1	0	2	1	0	0	0	0
	F	2	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle—17,015													
Drunken Driver (2,046)	M	986	163	215	71	329	47	42	12	75	11	11	6
	F	43	8	15	6	6	0	0	0	0	0	0	0
Other (4,969)	M	2387	144	881	120	703	35	221	51	134	12	53	14
	F	111	11	55	2	26	1	7	0	1	0	0	0
Domestic Welfare (1,016)	M	323	45	137	49	208	31	67	27	49	5	28	1
	F	11	3	8	2	9	0	5	5	1	2	0	0
Gambling—39	M	18	1	1	0	12	3	1	1	0	0	1	0
	F	1	0	0	0	0	0	0	0	0	0	0	0
Prohibition—745	M	227	23	51	13	199	25	40	7	29	2	12	2
	F	21	7	7	2	53	5	14	1	3	1	1	0
Disorderly Conduct—1,529	M	668	36	207	60	244	12	84	17	54	6	16	2
	F	31	2	18	5	33	2	29	2	1	0	0	0
Other Offenses—3,034	M	806	96	436	39	494	43	448	25	116	17	107	7
	F	48	10	61	4	24	5	246	1	1	0	0	0
Totals—25,582		10,300	911	3,304	473	6,084	563	2,291	210	868	102	434	42

* Clerks failed to list Race & Sex

INFERIOR COURT—YEAR 1964—STATE WIDE CRIMINAL CONVICTIONS BY MAJOR CRIME CLASSIFICATION

Offense	Sex	White				Colored				Unclassified**					
		Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other		
Assaults—23,236															
1. Aggravated (8,431)	M	1261	608	540	211	2538	825	642	326	145	64	48	15		
	F	124	81	60	12	519	230	142	40	—	—	—	—		
2. Non-Aggravated (14,805)															
	M	3856	1074	1419	265	4048	1089	1004	278	337	109	153	15		
	F	283	117	114	15	351	178	78	22	—	—	—	—		
Burglary—2,275															
	M	606	82	126	517	233	54	78	371	51	3	11	62		
	F	17	5	7	19	10	8	10	5	—	—	—	—		
Forgery—762															
	M	55	17	48	286	32	3	18	149	2	—	9	27		
	F	2	1	11	40	9	3	3	47	—	—	—	—		
Fraud-Embezzlement—9,766															
	M	4587	208	638	386	1178	75	149	135	757	26	120	23		
	F	1000	33	115	55	240	8	27	6	—	—	—	—		
Homicide—235															
	M	8	15	7	72	11	5	9	78	4	1	1	8		
	F	1	1	2	6	—	—	1	5	—	—	—	—		
Larceny—8,579															
	M	2572	398	444	506	2117	414	373	476	257	27	42	4		
	F	250	64	55	23	335	95	57	33	—	—	—	—		
Robbery—282															
	M	16	15	24	57	17	15	16	99	—	—	2	1		
	F	—	—	1	2	—	—	1	6	—	—	—	—		
Sex Offense—1,452															
1. Rape (103)	M	6	3	6	21	5	10	6	35	—	—	—	—		
	F	6	—	2	1	3	2	—	2	—	—	—	—		
2. Other (1,344)															
	M	335	62	106	61	236	38	50	37	21	6	11	1		
	F	137	29	49	15	101	14	29	6	—	—	—	—		
Pure Food & Drug—70															
	M	35	2	6	7	1	1	2	7	1	—	—	—		
	F	2	1	4	1	—	—	—	—	—	—	—	—		
Motor Vehicle—213,801															
1. Drunken Driver (11,127)	M	5576	592	527	749	2356	197	123	205	222	17	20	5		
	F	311	37	36	20	118	5	3	8	—	—	—	—		
2. Other (202,674)															
	M	117,498	4610	6726	1133	36078	1428	2638	444	7352	163	381	43		
	F	18,358	842	1076	82	3432	171	207	12	—	—	—	—		
Domestic Welfare—5,597															
	M	1624	373	578	125	1543	359	426	81	119	35	85	4		
	F	54	22	50	2	57	28	29	3	—	—	—	—		
Gambling—1,197															
	M	427	119	46	28	404	38	39	10	15	1	4	1		
	F	6	3	1	—	47	6	2	—	—	—	—	—		
Prohibition—9,016															
	M	3513	273	234	121	2485	216	204	143	385	16	35	7		
	F	258	27	30	9	843	86	85	46	—	—	—	—		
Disorderly Conduct—45,029															
1. Intoxicated (39,109)	M	20818	380	673	503	12204	229	281	270	1045	16	15	6		
	F	1,322	24	54	24	1170	21	28	26	—	—	—	—		
2. Other (5,920)															
	M	2526	424	374	54	844	315	145	48	154	15	26	2		
	F	223	74	73	16	471	82	50	4	—	—	—	—		
Other Offenses—17,814															
	M	6822	1068	1040	396	4201	649	672	272	524	73	143	16		
	F	614	162	168	35	619	131	169	40	—	—	—	—		
Totals—339,111		195,109	11,847	15,470	5,875	78,856	7,027	7,796	3,775	11,391	572	1,106	287		

** Clerks failed to list Race & Sex

INFERIOR COURT—YEAR 1965—STATE WIDE CRIMINAL CONVICTIONS BY MAJOR CRIME CLASSIFICATION

Offense	Sex	White				Colored				Unclassified**			
		Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other
Assaults—21,860													
Aggravated (7398)	M	975	417	402	64	2357	617	576	312	136	211	57	18
	F	97	85	73	5	505	242	132	59	36	10	10	2
Non-Aggravated (14462)	M	3800	1095	1350	269	3943	965	934	237	258	91	99	9
	F	293	161	132	11	392	200	95	25	69	13	20	1
Burglary—2,240	M	385	104	115	469	338	79	70	400	25	4	18	81
	F	31	10	23	32	25	10	9	11	0	0	1	0
Forgery—639	M	43	11	57	206	21	11	16	72	5	0	8	40
	F	5	2	9	91	15	2	8	17	0	0	0	0
Grand Embezzlement—10,281	M	4524	243	653	429	1234	87	183	93	1958	36	40	66
	F	965	50	94	80	247	17	145	7	27	0	3	0
Homicide—262	M	4	31	11	79	300	14	48	65	80	0	0	0
	F	0	03	07	2	0	4	2	13	13	0	2	1
Receiv—8,463	M	2124	410	551	503	2031	449	344	452	355	44	68	5
	F	292	70	72	17	404	82	73	44	12	2	6	—
Robbery—269	M	10	12	19	54	6	11	22	81	8	28	1	7
	F	0	1	1	0	1	2	3	2	0	0	0	0
Sex Offense—1,603													
Rape (188)	M	12	18	12	17	10	22	11	42	3	0	1	2
	F	14	2	9	3	5	2	0	2	0	1	0	0
Other (1,415)	M	335	78	99	63	259	59	35	51	33	3	8	3
	F	134	28	44	8	103	33	26	6	4	1	0	2
Traffic Food & Drug—96	M	43	12	6	9	3	4	0	1	0	1	3	1
	F	10	0	0	2	1	0	0	0	0	0	0	0
Motor Vehicle—205,004													
Drunken Driver (9,467)	M	4745	653	579	654	1593	173	110	210	247	15	9	5
	F	289	55	33	28	57	2	3	7	0	0	0	0
Other (195,537)	M	122,699	4745	7405	1116	36,632	1454	2626	470	17,633	150	574	33
	F	0	0	0	0	0	0	0	0	0	0	0	0
Domestic Welfare—5,596	M	1655	341	609	109	1608	322	437	69	112	25	41	0
	F	46	37	43	8	67	25	31	6	4	0	1	0
Gambling—701	M	187	49	30	11	260	29	17	16	41	2	2	0
	F	4	0	0	0	44	6	2	1	0	0	0	0
Prohibition—9,668	M	3432	181	260	84	3414	388	355	173	175	0	7	1
	F	228	26	23	7	699	71	93	32	15	3	0	1
Disorderly Conduct—61,781	M	31915	1143	1649	842	15614	673	749	248	3474	52	93	31
	F	2459	148	302	68	2071	98	121	31	0	0	0	0
Other Offenses—22,672	M	10596	1679	1810	597	3888	568	583	220	639	78	105	26
	F	607	178	154	36	569	134	165	26	10	1	0	3
Totals—351,135		192,958	12,078	16,636	5,973	78,419	6,855	7,984	3,501	24,392	771	1,177	301

* Clerks failed to list Race & Sex

DOMESTIC RELATIONS COURTS—YEAR—1965—STATE WIDE CRIMINAL CONVICTIONS BY MAJOR CRIME CLASSIFICATION

Offense	Sex	White				Colored				Unclassified**			
		Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other
Assaults—3602	M	1025	382	549	28	825	208	213	23	84	4	7	19
	F	50	51	31	1	56	22	17	7	0	0	0	0
Larceny—2	M	0	0	0	2	0	0	0	0	0	0	0	0
	F	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offenses—36	M	7	9	4	6	5	1	0	3	0	0	0	0
	F	0	0	1	0	0	0	0	0	0	0	0	0
Motor Vehicle	M	0	0	0	0	0	0	0	0	0	0	0	0
	F	0	0	0	0	0	0	0	0	0	0	0	0
Domestic Welfare—4476	M	1467	484	384	32	1402	370	133	9	1	0	0	0
	F	75	17	21	0	54	16	9	1	0	0	0	1
Disorderly Conduct—34	M	11	5	5	0	7	0	0	0	0	0	1	0
	F	0	0	0	0	5	0	0	0	0	0	0	0
Other Offenses—371	M	126	29	14	11	52	3	3	3	21	1	1	0
	F	42	7	2	1	47	5	3	0	0	0	0	0
Totals—8,521		2,803	984	1,011	81	2,453	625	378	46	106	5	9	20

** Clerks failed to list Race & Sex

DOMESTIC RELATIONS COURTS—YEAR—1964—STATE WIDE CRIMINAL CONVICTIONS BY MAJOR CRIME CLASSIFICATION

Offense	Sex	White				Colored				Unclassified**			
		Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other	Conv	Acquit	Nol Pros	Other
Assaults—3299	M	1016	297	445	43	747	162	222	33	110	3	15	0
	F	49	22	26	1	59	24	24	0	0	0	1	0
Larceny—3	M	0	0	3	0	0	0	0	0	0	0	0	0
	F	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense—29	M	7	5	3	6	0	0	1	6	0	0	0	0
	F	0	0	0	0	0	0	0	0	1	0	0	0
Motor Vehicle—11	M	8	1	0	0	0	0	0	0	1	0	0	0
	F	1	0	0	0	0	0	0	0	0	0	0	0
Domestic Welfare—4,653	M	1518	437	381	36	1368	333	193	4	166	15	3	0
	F	89	23	27	0	34	10	16	0	0	0	0	0
Disorderly Conduct—41	M	8	6	10	0	3	1	3	0	0	0	2	0
	F	1	1	2	0	2	0	2	0	0	0	0	0
Other Offenses—370	M	96	22	14	9	35	4	5	1	29	5	0	4
	F	58	6	14	4	50	7	6	1	0	0	0	0
Totals—8,406		2,851	820	925	99	2,298	541	472	45	307	23	21	4

** Clerks failed to list Race & Sex

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